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12 *Attorneys for Helios Streaming, LLC*

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 SOUTHERN DIVISION
16

17 HELIOS STREAMING, LLC,
18 Plaintiff,

19 vs.
20

21 WARNER BROS. DISCOVERY, INC.,
22 WARNERMEDIA DIRECT, LLC, and
HOME BOX OFFICE, INC.

23 Defendants.
24

) Case No.:

) **COMPLAINT FOR PATENT
INFRINGEMENT**

) DEMAND FOR JURY TRIAL
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28

1 Plaintiff Helios Streaming, LLC (“Helios”), for its Complaint against Defendant
2 Warner Bros. Discovery, Inc. (“WBD”), Defendant WarnerMedia Direct, LLC
3 (“WMD”), and Defendant Home Box Office, Inc. (“HBO”) (collectively,
4 “Defendants”), allege the following:

5 **NATURE OF THE ACTION**

6 1. This is an action for patent infringement arising under the Patent Laws of
7 the United States, 35 U.S.C. § 1 *et seq.*

8 **THE PARTIES**

9 2. Plaintiff Helios is a limited liability company organized under the laws of
10 the State of Delaware with a place of business at 2601 Main Street, Suite 960, Irvine,
11 California 92614.

12 3. Upon information and belief, Defendant WBD is a mass media and
13 entertainment conglomerate and corporation organized under the laws of the State of
14 Delaware with places of business at 8840 National Blvd., Culver City, CA 90232 and
15 4000 Warner Blvd., Burbank, CA 91522. Upon information and belief, WBD sells,
16 offers to sell, and/or uses products and services throughout the United States,
17 including in this judicial district, and introduces infringing products and services into
18 the stream of commerce knowing that they would be sold and/or used in this judicial
19 district and elsewhere in the United States.

20 4. Upon information and belief, Defendant WMD is a mass media limited
21 liability company organized under the laws of the State of Delaware with a place of
22 business at 4000 Warner Blvd., Burbank, CA 90232 and a registered agent at 330 N.
23 Brand Blvd., Glendale, CA 91203. Upon information and belief, Defendant WMD is
24 registered to do business in California. Upon information and belief, WMD sells,
25 offers to sell, and/or uses products and services throughout the United States,
26 including in this judicial district, and introduces infringing products and services into
27 the stream of commerce knowing that they would be sold and/or used in this judicial
28 district and elsewhere in the United States.

BACKGROUND

The Asserted Patents

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2
3 10. This action involves seven patents, described in detail in the counts
4 below (collectively, the “Asserted Patents”).

5 11. U.S. Patent No. 10,356,145 (“the ’145 patent”) claims technologies for
6 providing adaptive HTTP streaming services using metadata of media content that
7 were developed in the early 2010s by inventors Truong Cong Thang, Jin Young Lee,
8 Seong Jun Bae, Jung Won Kang, Soon Heung Jung, Sang Taick Park, and Won Ryu.

9 12. U.S. Patent No. 10,277,660 (“the ’660 patent”) claims technologies for
10 providing adaptive HTTP streaming services using metadata of media content that
11 were developed in the early 2010s by inventors Truong Cong Thang, Jin Young Lee,
12 Seong Jun Bae, Jung Won Kang, Soon Heung Jung, Sang Taick Park, Won Ryu, and
13 Jae Gon Kim.

14 13. U.S. Patent No. 10,027,736 (“the ’736 patent”) claims technologies for
15 providing adaptive HTTP streaming services using metadata of media content that
16 were developed in the early 2010s by inventors Truong Cong Thang, Jin Young Lee,
17 Seong Jun Bae, Jung Won Kang, Soon Heung Jung, Sang Taick Park, Won Ryu, and
18 Jae Gon Kim.

19 14. U.S. Patent No. 10,362,130 (“the ’130 patent”) claims technologies for
20 providing adaptive HTTP streaming services using metadata of media content that
21 were developed in the early 2010s by inventors Truong Cong Thang, Jin Young Lee,
22 Seong Jun Bae, Jung Won Kang, Soon Heung Jung, Sang Taick Park, Won Ryu, and
23 Jae Gon Kim.

24 15. U.S. Patent No. 8,909,805 (“the ’805 patent”) claims technologies for
25 providing adaptive HTTP streaming services using metadata of media content that
26 were developed in the early 2010s by inventors Truong Cong Thang, Jin Young Lee,
27 Seong Jun Bae, Jung Won Kang, Soon Heung Jung, Sang Taick Park, Won Ryu, and
28 Jae Gon Kim.

1 16. U.S. Patent No. 9,325,558 (“the ’558 patent”) claims technologies for
2 providing adaptive HTTP streaming services using metadata of media content that
3 were developed in the early 2010s by inventors Truong Cong Thang, Jin Young Lee,
4 Seong Jun Bae, Jung Won Kang, Soon Heung Jung, Sang Taick Park, Won Ryu, and
5 Jae Gon Kim (collectively, with the ’145, ’805, ’130, ’660, ’736 patents, the “DASH
6 Patents”).

7 17. The claimed inventions of the DASH Patents were primarily invented by
8 researchers of the Electronics and Telecommunications Research Institute (“ETRI”),
9 the national leader in Korea in the research and development of information
10 technologies. Since its inception in 1976, ETRI has developed new technologies in
11 4M DRAM computer memory, CDMA and 4G LTE cellular phone communications,
12 LCD displays, Video Coding, and Media Transport & Delivery, the latter technology
13 of which is at issue in this case. ETRI employs over 1,800 research/technical staff, of
14 whom 94% hold a post-graduate degree and 50% have earned a doctoral degree in
15 their technological field. Over the last five years, ETRI produced 1,524 SCI papers
16 and has 467 standard experts, applied for a total of 16,062 patents, has contributed
17 7,309 proposals that have been adopted by international and domestic standard
18 organizations (ISO, IEC, ITU, 3GPP, JTC, IEEE, etc.). Dr. Truong Cong Thang and
19 Dr. Jae Gon Kim among the inventors were employees of ETRI.

20 18. The DASH Patents claim technologies fundamental to Dynamic Adaptive
21 Streaming over HTTP (“DASH”), a media-streaming model for delivering media
22 content.

23 19. DASH technology has been standardized in the ISO/IEC 23009
24 standards, which were developed and published by the International Organization for
25 Standardization (“ISO”) and the International Electrotechnical Commission (“IEC”).

26 20. The claimed inventions of the DASH Patents have been incorporated into
27 the standard for dynamic adaptive streaming delivery of MPEG media over HTTP,
28

1 ISO/IEC 23009-1:2014, and subsequent versions of this standard (collectively, these
2 standards are referred to throughout as “MPEG-DASH”).

3 21. MPEG-DASH technologies, including those of the claimed inventions of
4 the DASH Patents, facilitate high-quality streaming of media content by breaking
5 media content—a movie, for example—into smaller parts that are each made available
6 at a variety of bitrates. As a user plays back downloaded parts of the media content,
7 the user’s device employs an algorithm to select subsequent media parts with the
8 highest possible bitrate that can be downloaded in time for playback without causing
9 delays in the user’s viewing and listening experience.

10 22. The MPEG-DASH standard, including the claimed inventions of the
11 DASH Patents, therefore enables high-quality streaming of media content over the
12 internet delivered from conventional HTTP web servers, which was not previously
13 possible on a large scale with prior art techniques and devices.

14 23. In or about August of 2018, Helios obtained an exclusive license to the
15 DASH Patents.

16 24. On January 5, 2022, Helios acquired all right, title and interest in, to, and
17 under the DASH Patents.

18 25. U.S. Patent No. 8,549,164 (“the ’164 patent”) claims technologies for
19 media transmission including a user terminal, communication network, and media
20 server that were developed in the late-2000s by inventors Tae Meon Bae and Kyung
21 Min Kim.

22 26. The claimed inventions of the ’164 patent relate to media transmission
23 systems and methods wherein a user terminal transmits information about a position
24 where media data will be played to a server when that media data is streamed from the
25 server. For example, the server selects a video frame nearest to the information from
26 the play position so that a user can easily move to and play the desired media scene.

27 27. On February 21, 2020, Plaintiff Helios acquired all right, title and interest
28 in, to, and under the ’164 patent.

1 36. On information and belief, on or about April 8, 2022, WarnerMedia and
2 Discovery, Inc. merged (“the WBD Merger”) to create a new company, Defendant
3 WBD, which acquired the HBO Max Accused Streaming Service, among other
4 Discovery, Inc. and WarnerMedia assets.

5 37. Upon information and belief, as of the WBD Merger, WarnerMedia and
6 Discovery, Inc. ceased to exist and Defendant WBD, as successor-in-interest to both
7 entities, assumed all liability for WarnerMedia’s past infringing activities pertaining to
8 the HBO NOW and HBO Max Accused Streaming Services. Accordingly, any
9 discussion below of “Defendants” or “WBD’s” liability is intended to also
10 encompass liability attributable to WarnerMedia. Any discussion below of
11 “Defendants” or “WBD’s” knowledge is intended to encompass knowledge
12 attributable to WarnerMedia or Discovery, Inc., as predecessors-in-interest to WBD.

13 38. Upon information and belief, on or about August 24, 2022, WBD
14 announced plans to launch a new streaming platform, the Max Accused Streaming
15 Service, which was slated to combine the HBO Max Accused Streaming Service with
16 additional streaming content and services, including content and services previously
17 owned or operated by Discovery, Inc. and its affiliates prior to the WBD Merger.

18 39. Upon information and belief, the Max Accused Streaming Service was
19 launched on or about May 23, 2023. Upon the launch of the Max Accused Streaming
20 Service, the HBO Max Accused Streaming Service ceased to exist as a separate
21 offering.

22 40. On information and belief, at all relevant times Defendant WMD has and
23 continues to operate the Max Accused Streaming Service.

24 41. On information and belief, at all relevant times WMD’s operation of the
25 Max Accused Streaming Service has been and continues to be directed by, or subject
26 to the direction of, WBD.

1 Prior Communications Between the Parties

2 42. For more than four years, Helios attempted in good faith to amicably
3 resolve its infringement claims pertaining to the Asserted Patents with various
4 representatives for the Defendants.

5 43. On June 11, 2019, Helios sent Defendant HBO a notice letter concerning
6 the Asserted Patents and the HBO NOW Accused Streaming Service (“First Notice
7 Letter”). The First Notice Letter identified the DASH Patents, the applications that
8 would issue as the ’145 and ’130 patents, the MPEG-DASH standards to which the
9 DASH patents and applications pertained, and informed HBO of its infringement and
10 potential infringement of these patents and applications via its streaming services,
11 which included HBO NOW. A true and correct copy of the First Notice Letter is
12 attached hereto as Exhibit 1.

13 44. On June 24, 2019, Helios requested a call with HBO to discuss a license
14 to its DASH Patents and to request confirmation of receipt of the First Notice Letter.
15 The next day, Ms. Jessica Davidovitch, in-house counsel for HBO, confirmed that
16 HBO had received the First Notice Letter.

17 45. On August 28, 2019, over two months later, Helios again emailed HBO
18 about licensing the DASH Patents and informed HBO that the ’145 and ’130 patents
19 had issued, attaching copies of the ’145 and ’130 patents for HBO’s review.

20 46. On October 24, 2019, after nearly another two months, Ms. Davidovitch
21 responded, informing Helios that HBO had undergone restructuring and that she was
22 “now part of the litigation team that supports WarnerMedia business[es], including but
23 not limited to HBO.” Ms. Davidovitch claimed that HBO and/or WarnerMedia did
24 not require a license for the DASH Patents, yet she also requested that Helios provide
25 “more substantive detail, such as claim charts supporting your prior correspondence.”
26 Ms. Davidovitch added that HBO and/or WarnerMedia were “not willing to sign an
27 NDA” to facilitate freer discussions.

1 47. On October 30, 2019, Helios responded to Ms. Davidovitch, noting that
2 “in addition to HBO Now/GO, you can also address a license for other WarnerMedia
3 streaming properties . . . which utilize Dynamic Adaptive Streaming over HTTP
4 (DASH).” Helios then offered to provide “detailed claim charts that are mapped to
5 HBO’s streaming services,” but would “first need to have an NDA in place” and
6 attached an NDA for HBO and WarnerMedia’s review. HBO and WarnerMedia
7 never responded to this email.

8 48. On January 2, 2020, Helios again contacted HBO and WBD’s
9 predecessor-in-interest WarnerMedia. Helios noted it had asserted the DASH Patents
10 against several entities and provided links to those legal documents, which included
11 Helios’s detailed infringement allegations pertaining to the DASH Patents. Helios
12 again offered to provide HBO and WarnerMedia “detailed claim charts,” but again
13 requested the parties enter into an NDA first, attaching another draft NDA for HBO’s
14 and WarnerMedia’s review.

15 49. On January 17, 2020, HBO and WarnerMedia responded and asked to
16 see the “more detailed claim charts,” but refused to enter into the proposed NDA.

17 50. On February 12, 2020, Helios provided ten exemplary claim charts,
18 detailing HBO’s and WarnerMedia’s infringement of the DASH Patents via the HBO
19 NOW Accused Streaming Service.

20 51. In a separate line of communications, on March 4, 2020, Helios sent
21 AT&T Intellectual Property Corp. a notice letter concerning the Asserted Patents and
22 other AT&T streaming services not accused in this action (“Second Notice Letter”).
23 On information and belief, at the time AT&T Intellectual Property Corp. was the
24 intellectual property licensing arm of HBO’s then-parent AT&T, Inc. The Second
25 Notice Letter identified the Asserted Patents, the MPEG-DASH standards to which
26 they pertain, and informed AT&T Intellectual Property Corp. of AT&T’s infringement
27 via streaming services not accused in this action, but which, like the HBO accused
28 streaming services, utilized portions of the MPEG-DASH standard claimed in the

1 Asserted Patents. A true and correct copy of the Second Notice Letter is attached
2 hereto as Exhibit 2.

3 52. On April 1, 2020, Mr. Geoffrey Sutcliffe responded to the Second Notice
4 Letter on behalf of AT&T, requesting claim charts demonstrating AT&T's
5 infringement of the DASH Patents and refusing to enter into an NDA.

6 53. On April 29, 2020, Ms. Davidovitch informed Helios that Mr. Sutcliffe
7 would be handling all further communications "on behalf of WarnerMedia, as well
8 [as] for all other AT&T affiliates" regarding the licensing of the DASH Patents. Thus,
9 as of April 29, 2020, Mr. Sutcliffe became Helios's point of contact for all licensing
10 discussions concerning the DASH Patents and the accused HBO streaming services.

11 54. On February 15, 2021, Helios sent a third notice letter to HBO's then
12 ultimate parent company, AT&T, Inc., via Mr. Sutcliffe ("Third Notice Letter"). The
13 Third Notice Letter identified the DASH Patents, the MPEG-DASH standards to
14 which they pertained, and relayed that HBO's streaming services directly and
15 indirectly infringed the DASH Patents. A true and correct copy of the Third Notice
16 Letter is attached hereto as Exhibit 3.

17 55. On March 26, 2021, Mr. Sutcliffe responded to the Third Notice Letter
18 via email, requesting claim charts demonstrating the alleged infringement.

19 56. On April 21, 2021, Helios identified the HBO NOW and HBO Max
20 Accused Streaming Services as infringing the DASH Patents and provided exemplary
21 and redacted claim charts of the HBO NOW Accused Streaming Service
22 demonstrating this infringement.

23 57. On May 7, 2021, Mr. Sutcliffe confirmed receipt of the April 21, 2021
24 claim charts but implausibly claimed he would be unable to determine "whether or
25 how Helios believes its patents are being infringed" from the information provided,
26 despite that the claim charts set forth Helios's infringement allegations on a limitation-
27 by-limitation basis and included extensive examples of offending computer code
28 along with pictorial evidence of infringement.

1 58. On May 10, 2021, Helios responded, reiterating that the “infringement
2 reads are clear from the evidence of use provided in the charts” and suggesting the
3 parties have a videoconference to discuss any questions.

4 59. Mr. Sutcliffe did not respond for over two months, despite Helios’s
5 follow-up communications on June 7, June 21, and July 7, 2021.

6 60. In the interim, in a separate line of communication, Helios sent
7 Discovery, Inc. (another WBD predecessor-in-interest) a notice letter on June 10,
8 2021 concerning the Asserted Patents (“Fourth Notice Letter”). The Fourth Notice
9 Letter identified the Asserted Patents, the MPEG-DASH standards to which they
10 pertained, and informed Discovery, Inc. of its infringement via streaming services that
11 would later be incorporated in part into the Max Accused Streaming Service. A true
12 and correct copy of the Fourth Notice Letter is attached hereto as Exhibit 4.

13 61. On July 1, 2021, Helios and in-house counsel for Discovery, Inc.
14 corresponded via email regarding Discovery, Inc.’s infringement and the potential
15 licensing of the Asserted Patents.

16 62. In the simultaneous but separate line of communication concerning the
17 HBO NOW and HBO Max Accused Streaming Services, on July 26, 2021, Helios and
18 Mr. Sutcliffe held a videoconference to discuss Helios’s claims and proposed NDA.

19 63. On July 27, 2021, although the parties had reached an impasse on the
20 proposed NDA, Helios provided claim charts for the HBO NOW Accused Streaming
21 Service, which again demonstrated infringement of the DASH Patents but also
22 included Helios’s previously redacted analysis and commentary. Helios also noted
23 that “several new DASH Patents have been recently issued,” and Helios provided
24 “unredacted DASH claim charts for HBO Now” demonstrating infringement of those
25 newly issued patents via the HBO NOW Accused Streaming Service on July 29, 2021.

26 64. On September 7, 2021, Mr. Sutcliffe requested for the first time that
27 Helios “walk us through the claim charts to explain its analysis of the patents and the
28 accused services.”

1 65. Helios responded the same day and offered times for the call, noting that
2 Mr. Sutcliffe had “had the unredacted claim charts for over 5 weeks” and the redacted
3 claim charts for four and a half months.

4 66. On September 9, 2021, Mr. Sutcliffe responded, noting that Helios had
5 “previously accused HBO Max” of infringement and asking for Helios to provide
6 claim charts for that service also.

7 67. In the separate series of negotiations involving Discovery, Inc., but also
8 on September 9, 2021, Discovery, Inc. and Helios entered into an NDA. Over the
9 next 18 months, Helios, Discovery, Inc. and WBD (as successor-in-interest to
10 Discovery, Inc. after the WBD Merger) held multiple discussions subject to the NDA,
11 the substance of which cannot be referenced in a public filing.

12 68. Meanwhile, on September 13, 2021, Helios responded to Mr. Sutcliffe,
13 noting it was not necessary to provide additional claim charts for the HBO Max
14 Accused Streaming Service because, in part, Helios had already “provide[d] you with
15 evidence as to how each element is being practiced by AT&T and HBO’s streaming
16 services” for the “8 different exemplary DASH patents provided.” Helios also noted it
17 had been over two years since the parties had begun discussions, there had been a
18 “complete lack of any meaningful progress” or “good faith” behavior. Helios also
19 stated Mr. Sutcliffe’s request for Helios to verbally “review the claim charts on an
20 element-by-element basis” was “clearly being used to cause unnecessary delay.”

21 69. On September 14, 2021, Helios held a teleconference with Mr. Sutcliffe,
22 and Mr. Sutcliffe confirmed that the exemplary claim charts for the HBO Now
23 Accused Streaming Service had been reviewed. Helios also provided Mr. Sutcliffe
24 with proposed royalty rates for the DASH Patents for the HBO NOW and HBO Max
25 Accused Streaming Services.

26 70. After multiple additional attempts to engage in further negotiations, on
27 October 18, 2021, Helios wrote to Mr. Sutcliffe one final time, noting that despite the
28 nearly two and a half years since commencing discussions, the parties were no closer

1 to resolution, and that the HBO NOW and HBO Max Accused Streaming Services
2 “continue[] to infringe on” the DASH Patents. Helios stated that because there had
3 been no demonstration of “any willingness to engage in good faith licensing
4 discussions,” Helios would treat HBO and WarnerMedia as “unwilling licensee[s],”
5 and as such Helios was no longer legally obligated to offer “a license for standard
6 essential patents in our portfolio under fair, reasonable, and non-discriminatory
7 (‘FRAND’) terms.” Helios also stated that if no “meaningful progress in our licensing
8 discussions” occurred before the end of the month, Helios would be left with “no
9 other choice but to take legal measures to address this matter.”

10 71. Mr. Sutcliffe responded on October 26, 2021 via email, denying Helios’s
11 characterizations and demanding to see copies of Helios’s highly confidential licenses
12 with other licensees of the DASH Patents “[t]o demonstrate that Helios is indeed
13 offering FRAND licensing terms.” Helios and Mr. Sutcliffe had no further
14 communications.

15 72. Meanwhile, Discovery, Inc. (and later WBD as successor-in-interest to
16 Discovery, Inc.) and Helios continued to hold discussions pursuant to their NDA
17 concerning Discovery Inc.’s accused streaming services.

18 73. On April 11, 2023, however, Helios terminated the NDA between Helios
19 and WBD. In doing so, Helios stated that “[d]espite numerous discussions with your
20 outside counsel for the last 18+ months, it has been made clear to us by your outside
21 counsel that Warner Bros. Discovery, Inc. has no intent to resolve this licensing matter
22 amicably. Although not our preference, we have no other choice but to proceed with
23 more formal legal measures to address this matter. As a first step, we hereby provide
24 you with official notice of Helios Streaming, LLC’s intent to terminate the NDA . . .
25 effective immediately.”

26 74. On June 23, 2023, Helios sent a notice letter to Defendant WBD
27 regarding the parties’ ongoing discussions and WBD’s continued infringement of the
28 Asserted Patents via the now-deprecated HBO NOW and HBO Max Accused

1 Streaming Services, and the newly launched Max Accused Streaming Service (“Fifth
2 Notice Letter”). A true and correct copy of the Fifth Notice Letter is attached hereto
3 as Exhibit 5.

4 75. Helios’s Fifth Notice Letter stated “[a]s your company Warner Brothers
5 Discovery, Inc. (‘WBD’) is aware from many previous communications and
6 discussions with Helios, Helios owns patents essential and/or related to ISO/IEC
7 23009-1, the industry standard for Dynamic Adaptive Streaming over HTTP
8 (‘DASH’), including but not limited to U.S. Patent Nos. 8,909,805 (the ‘’805 patent’),
9 9,325,558 (the ‘’558 patent’), 9,338,211 (the ‘’211 patent’), 10,027,736 (the ‘’736
10 patent’), 10,277,660 (the ‘’660 patent’), 10,356,145 (the ‘’145 patent’), 10,362,130
11 (the ‘’130 patent’), and 10,819,815 (the ‘’815 patent’) (collectively, the DASH
12 patents’). We write in one final attempt to reach an amicable resolution regarding
13 WBD’s knowing and continued infringement of these patents, and others to which
14 Helios holds the exclusive right to license third parties.”

15 76. The Fifth Notice Letter identified the Asserted Patents, the specific
16 MPEG-DASH standard sections to which they pertained, and that the Asserted Patents
17 were essential to utilizing these MPEG-DASH standards. The Fifth Notice Letter and
18 its attachments also specifically identified the HBO NOW, HBO Max, and Max
19 Accused Streaming Services and detailed how WBD was directly infringing and
20 actively encouraging the direct infringement of the Asserted Patents via these services.
21 Included with the Fifth Notice Letter were exemplary claim charts detailing
22 Defendants’ infringement of the Asserted Patents via the HBO NOW, HBO Max, and
23 Max Accused Streaming Services. (Ex. 5 at 2.)¹

24 77. As of the date of this Complaint, Defendants have not responded to the
25 Fifth Notice Letter and Defendants continue to infringe at least via the Max Accused
26 Streaming Service.

27 ¹ The relevant exemplary claim charts attached to the Fifth Notice Letter are
28 substantively identical to the claim charts attached as Exhibits 8-9, 11, 13, 16-17, 20-
21, and 24 to this Complaint.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 10,356,145

1
2 78. The allegations set forth in the foregoing paragraphs 1 through 77 are
3 incorporated into this First Claim for Relief.

4 79. On July 16, 2019, the '145 Patent was duly and legally issued by the
5 United States Patent and Trademark Office under the title “Method and Device for
6 Providing Streaming Content.” A true and correct copy of the '145 patent is attached
7 as Exhibit 6.

8 80. Helios is the assignee and owner of all right, title, and interest in and to
9 the '145 patent, including the exclusive right to assert all causes of action arising
10 under the '145 patent and the right to any remedies for infringement of it.

11 81. Upon information and belief, Defendants have and continue to directly
12 infringe at least claims 1 and 2 and to actively induce the infringement of at least
13 claims 3 and 4 of the '145 patent by selling, offering to sell, making, using, and/or
14 providing and causing to be used streaming media content (the “Accused
15 Instrumentalities”), including one or more videos on demand (“VOD”) and media
16 content such as those available at <https://play.hbonow.com/>, <https://play.hbomax.com/>
17 and <https://play.max.com/>, as set forth in detail in the preliminary and exemplary
18 claim charts attached as Exhibits 7-9.

19 82. On information and belief, the Accused Instrumentalities have and
20 continue to be used, marketed, provided to, and/or used by or for each Defendants’
21 partners, clients, customers, and end users across the country and in this District.

22 83. Claim 1 of the '145 patent recites a method of providing media content
23 performed by a server or multiple servers, the method comprising: receiving a request
24 for the media content from a client based on a media presentation description
25 (“MPD”) with respect to the media content; and providing a segment of media content
26 through streaming to the client in response to the request, wherein the MPD includes
27 one or more periods, wherein the period includes one or more groups, wherein the
28 group includes one or more representations, wherein the representation includes one

1 or more segments, wherein the group includes one or more group elements for each of
2 the groups, and wherein a group element provides a summary of values of all
3 representations with a group.

4 84. Upon information and belief, from July 16, 2019 through May 27, 2020
5 the HBO NOW Accused Streaming Service performed the method of claim 1 of the
6 '145 patent, and therefore infringed claim 1 of the '145 patent, for at least the reasons
7 set forth in the preliminary infringement analysis detailed in Exhibit 7.

8 85. Upon information and belief, from May 27, 2020 through May 23, 2023
9 the HBO Max Accused Streaming Service performed the method of claim 1 of the
10 '145 patent, and therefore infringed claim 1 of the '145 patent, for at least the reasons
11 set forth in the preliminary infringement analysis detailed in Exhibit 8.

12 86. On information and belief, since May 23, 2023, the Max Accused
13 Streaming Service has and continues to perform the method of claim 1 of the '145
14 patent, and therefore has and continues to infringe claim 1 of the '145 patent, for at
15 least the reasons set forth in the preliminary infringement analysis detailed in Exhibit
16 9.

17 87. Claim 2 of the '145 patent recites the method of claim 1, wherein the
18 group element includes at least one of (i) an ID of the group, (ii) a minBandWidth
19 indicating a minimum value among bandwidth attributes of all representations in the
20 group, (iii) a maxBandwidth indicating a maximum value among bandwidth attributes
21 of all representations in the group, (iv) a minWidth indicating a minimum value
22 among width attributes of all representations in the group, (v) a maxWidth indicating a
23 maximum value among width attributes of all representations in the group, (vi) a
24 minHeight indicating a minimum value among height attributes of all representations
25 in the group, (vii) a maxHeight indicating a maximum value among height attributes
26 of all representations in the group, (viii) a minFrameRate indicating a minimum value
27 among frame rate attributes of all representations in the group, (ix) a maxFrameRate
28 indicating a maximum value among frame rate attributes of all representations in the

1 group, (x) a language attribute indicating the language of all representations in the
2 group, (xi) a mimeType attribute indicating the mime type for all representation in the
3 group, and (xii) a codec indicating a codec that is used for all representations in the
4 group.

5 88. On information and belief, from July 16, 2019 through May 27, 2020, the
6 HBO NOW Accused Streaming Service infringed claim 2 of the '145 patent by
7 performing the method of claim 1 of the '145 patent wherein the group element
8 includes at least an ID of the group, a maxWidth indicating a maximum value among
9 width attributes of all representations in the group, or a maxHeight indicating a
10 maximum value among height attributes of all representations in the group, for at least
11 the reasons set forth in the preliminary infringement analysis detailed in Exhibit 7.

12 89. On information and belief, from May 27, 2020 through May 23, 2023,
13 the HBO Max Accused Streaming Service infringed claim 2 of the '145 patent by
14 performing the method of claim 1 wherein the group element included at least an ID
15 of the group, a maxWidth indicating a maximum value among width attributes of all
16 representations in the group, or a maxHeight indicating a maximum value among
17 height attributes of all representations in the group, for at least the reasons set forth in
18 the preliminary infringement analysis detailed in Exhibit 8.

19 90. On information and belief, since May 23, 2023, the Max Accused
20 Streaming Service has and continues to infringe claim 2 of the '145 patent by
21 performing the method of claim 1 of the '145 patent wherein the group element
22 includes at least an ID of the group, a maxWidth indicating a maximum value among
23 width attributes of all representations in the group, or a maxHeight indicating a
24 maximum value among height attributes of all representations in the group, for at least
25 the reasons set forth in the preliminary infringement analysis detailed in Exhibit 9.

26 91. Upon information and belief, one or more of the Defendants have
27 induced and continue to induce others to infringe at least claims 3 and 4 of the '145
28 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or

1 willful blindness, actively encouraging or aiding and abetting others to infringe,
2 including but not limited to Defendants’ partners, customers, and/or users whose use
3 of the Accused Instrumentalities constitutes direct infringement of at least claims 3
4 and 4 of the ’145 patent.

5 92. For example, Defendants actively induce and encourage their partners,
6 customers, and/or users to directly infringe claims 3 and 4 of the ’145 patent by at
7 least: (1) coding infringing methods into their streaming media content, (2) knowingly
8 and strategically placing enticing play icons (e.g., “▶”) and buttons (e.g., “Watch” or
9 “Watch Now”) with their streaming media content, and (3) actively encouraging their
10 users to click the play icons and buttons, which necessarily triggers the performance
11 of these known infringing methods in client devices, as set forth in the preliminary
12 infringement analysis detailed in Exhibits 7-9.

13 93. As a further example, Defendants have and continue to actively and
14 knowingly encourage infringement of the ’145 patent by, in addition to continuing to
15 strategically place the enticing icons and buttons mentioned above, instructing users of
16 various streaming devices, such as phones or tablets, computers, and smart TVs,
17 including but not limited to Amazon FireTVs, Android TVs, Apple TVs, Cox Contour
18 2 and Contour Stream Players, LG Smart TVs, PlayStations, Rokus, Samsung TVs,
19 VIZIO Smart TVs, Xboxs, XClass TVs, Xfinity X1 and Flex TVs, PCs, Macs,
20 Chromebooks, Android phones or tablets, and iPhone, iPad, and iPod touch devices,
21 among others, to stream Defendants’ DASH-enabled VOD via the Accused
22 Instrumentalities:
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The screenshot shows the HBO Max Help Center interface. The main heading is "Which devices work with HBO Max?". Below the heading, it states "The following devices are supported by HBO Max." and "Choose a device type" with tabs for "Phone or Tablet", "Computer", and "TV". Under the "TV" tab, it lists supported TV devices: Amazon Fire TV, Android TV, Apple TV, Cox Contour 2 and Contour Stream Player, LG Smart TV, PlayStation, Roku, and Samsung TV. For Amazon Fire TV, it provides specific instructions: "Install: From the Home screen of your Amazon Fire TV device, choose **Find** and search for HBO Max. Then, select **HBO Max** and choose the download option." and "Sign in or sign up: Open HBO Max and choose [Sign in](#) or [Choose a Plan](#)."

14 (See <https://help.hbomax.com/do-en/Answer/Detail/000001243> (last accessed July 24,
15 2023).)

16 94. Claim 3 recites a method of providing media content performed by a
17 client, the method comprising: transmitting a request for the media content to a server
18 based on a media presentation description (MPD) with respect to the media content;
19 and receiving a segment of media content through streaming from the server in
20 response to the request, wherein the MPD includes one or more periods, wherein the
21 period includes one or more groups, wherein the group includes one or more
22 representations, wherein the representation includes one or more segments, wherein
23 the group includes one or more group elements for each of the groups, and wherein a
24 group element provides a summary of values of all representations with a group.

25 95. Upon information and belief, one or more of the Defendants have and
26 continue to actively induce infringement of claim 3 of the '145 patent by actively
27 inducing their partners, customers, and/or users to perform the method of claim 3 of
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1 the '145 patent with their client devices, as set forth above in paragraphs 91-93 and in
2 the preliminary infringement analyses set forth in Exhibits 7-9.

3 96. On information and belief, from July 16, 2019 through May 27, 2020,
4 one or more of the Defendants induced infringement of claim 3 of the '145 patent via
5 the HBO NOW Accused Streaming Service, as set forth in the preliminary
6 infringement analysis in Exhibit 7.

7 97. On information and belief, from May 27, 2020 through May 23, 2023,
8 one or more of the Defendants induced infringement of claim 3 of the '145 patent via
9 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
10 analysis in Exhibit 8.

11 98. On information and belief, since May 23, 2023, one or more of the
12 Defendants have and continue to induce the direct infringement of claim 3 of the '145
13 patent via the Max Accused Streaming Service, as set forth in the preliminary
14 infringement analysis in Exhibit 9.

15 99. Claim 4 recites the method of claim 3, wherein the group element
16 includes at least one of (i) an ID of the group, (ii) a minBandWidth indicating a
17 minimum value among bandwidth attributes of all representations in the group, (iii) a
18 maxBandwidth indicating a maximum value among bandwidth attributes of all
19 representations in the group, (iv) a minWidth indicating a minimum value among
20 width attributes of all representations in the group, (v) a maxWidth indicating a
21 maximum value among width attributes of all representations in the group, (vi) a
22 minHeight indicating a minimum value among height attributes of all representations
23 in the group, (vii) a maxHeight indicating a maximum value among height attributes
24 of all representations in the group, (viii) a minFrameRate indicating a minimum value
25 among frame rate attributes of all representations in the group, (ix) a maxFrameRate
26 indicating a maximum value among frame rate attributes of all representations in the
27 group, (x) a language attribute indicating the language of all representations in the
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1 group, (xi) a mimeType attribute indicating the mime type for all representation in the
2 group, and (xii) a codec indicating a codec that is used for all representations in the
3 group.

4 100. Upon information and belief, one or more of the Defendants have and
5 continue to actively induce infringement of claim 4 of the '145 patent by actively
6 inducing their partners, customers, and/or users to perform the method of claim 3 of
7 the '145 patent with their client devices wherein the group element includes at least an
8 id, minBandwidth, maxBandwidth, mimeType, maxWidth, and maxHeight, as set
9 forth above in paragraphs 91-93 and in the preliminary infringement analyses set forth
10 in Exhibits 7-9.

11 101. On information and belief, from July 16, 2019 through May 27, 2020,
12 one or more of the Defendants induced infringement of claim 4 of the '145 patent via
13 the HBO NOW Accused Streaming Service, as set forth in the preliminary
14 infringement analysis in Exhibit 7.

15 102. On information and belief, from May 27, 2020 through May 23, 2023,
16 one or more of the Defendants induced infringement of claim 4 of the '145 patent via
17 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
18 analysis in Exhibit 8.

19 103. On information and belief, since May 23, 2023, one or more of the
20 Defendants have and continue to induce infringement of claim 4 of the '145 patent via
21 the Max Accused Streaming Service, as set forth in the preliminary infringement
22 analysis in Exhibit 9.

23 104. On information and belief, one or more of the Defendants have engaged
24 and continue to engage in such actions with specific intent to cause infringement or
25 with willful blindness to the resulting infringement because Defendants have had
26 actual knowledge of or should have had actual knowledge of the '145 patent and that
27 their acts were inducing infringement of the '145 patent since at least February 12,
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1 2020, when Helios provided detailed claim charts of Defendants' infringement of the
2 '145 patent; or, if not then, since at least the time of April 21, 2021, when Helios
3 provided exemplary and redacted claim charts demonstrating Defendants'
4 infringement; or, if not then, since at least the time of July 29, 2021, when Helios
5 provided unredacted exemplary claim charts for the DASH Patents demonstrating
6 Defendants' infringement; or, if not then, since at least the time of the parties'
7 September 14, 2021 phone call, during which the parties discussed the exemplary
8 claim charts of the DASH Patents and discussed a royalty rate and licensing terms; or,
9 if not then, since at least the time of October 18, 2021, where Helios offered
10 Defendants a license for the DASH Patents under FRAND terms; or, if not then, since
11 at least the time of the WBD Merger; or, if not then, since at least the time of
12 receiving Plaintiff's Fifth Notice Letter on June 23, 2023; or, if not then, since at least
13 the time of receiving the Complaint in this matter and Exhibits 7-9 thereto in view of
14 (i) Defendants' extensive knowledge of and experience with MPEG-DASH, (ii)
15 Defendants' knowledge of how they were encouraging their partners, customers, and
16 users to stream their MPEG-DASH-enabled VOD via the Accused Instrumentalities,
17 and (iii) the parties' pre-suit communications regarding the Asserted Patents and
18 Defendants' websites, apps, and services, which communications detailed how
19 Defendants directly infringed and induced the direct infringement of the asserted
20 claims of the '145 patent.

21 105. In its First, Second, Third, Fourth, and Fifth Notice Letters, Helios
22 clearly identified the MPEG-DASH standard to which the Asserted Patents pertained,
23 identified the Asserted Patents, informed Defendants that the Asserted Patents were
24 essential to MPEG-DASH, provided proof that it knew Defendants were utilizing the
25 MPEG-DASH standard in providing streaming VOD via its websites and apps, and
26 specified how the Accused Instrumentalities infringed Helios's Asserted Patents.
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1 106. Notwithstanding the above, Defendants continued to infringe the '145
2 patent despite having actual knowledge of or being willfully blind to their
3 infringement.

4 107. On information and belief, based on the facts set forth in in the foregoing
5 paragraphs, Defendants' infringement has been and continues to be willful.

6 108. Plaintiff has been harmed by Defendants' infringing activities.

7 **COUNT II – INFRINGEMENT OF U.S. PATENT NO. 10,277,660**

8 109. The allegations set forth in the foregoing paragraphs 1 through 108 are
9 incorporated into this Second Claim for Relief.

10 110. On April 30, 2019, the '660 Patent was duly and legally issued by the
11 United States Patent and Trademark Office under the title "Apparatus and Method for
12 Providing Streaming Content." A true and correct copy of the '660 patent is attached
13 as Exhibit 10.

14 111. Helios is the assignee and owner of all right, title, and interest in and to
15 the '660 patent, including the exclusive right to assert all causes of action arising
16 under the '660 patent and the right to collect any remedies for infringement of it.

17 112. Upon information and belief, Defendants infringed at least claims 1, 2, 3,
18 4, and 10 and induced infringement of claims 11, 12, 13, and 14 of the '660 patent by
19 selling, offering to sell, making, using, and/or providing and causing to be used
20 streaming media content (the "Accused Instrumentalities"), including one or more
21 videos on demand ("VOD") and media content such as those available at
22 <https://play.hbomax.com/>, as set forth in detail in the preliminary and exemplary claim
23 chart attached as Exhibit 11.

24 113. On information and belief, the Accused Instrumentalities have been used,
25 marketed, provided to, and/or used by or for each of Defendants' partners, clients,
26 customers, and end users across the country and in this District.
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1 114. Claim 1 recites a method for providing media content performed by a
2 server or multiple servers, comprising: receiving, from a client, a Uniform Resource
3 Locator (URL) request for a segment of the media content based on a metadata of the
4 media content, wherein the metadata comprises multiple BaseURL elements and
5 wherein identical segments are accessible at locations indicated by URLs resolved
6 with respect to the multiple BaseURL elements; and sending the requested segment of
7 the media content to the client, wherein the URL of the requested segment is
8 generated based on a selected BaseURL element among the multiple BaseURL
9 elements.

10 115. Upon information and belief, from May 27, 2020 through May 23, 2023
11 the HBO Max Accused Streaming Service performed the method of claim 1 of the
12 '660 patent, and therefore infringed claim 1 of the '660 patent, for at least the reasons
13 set forth in the preliminary infringement analysis detailed in Exhibit 11.

14 116. Claim 2 recites the method of claim 1, wherein the first BaseURL
15 element among the multiple BaseURL elements is used as a basic Universal Resource
16 Indicator (URI), and BaseURL elements other than the first BaseURL element are
17 used as alternative BaseURL elements.

18 117. On information and belief, from May 27, 2020 through May 23, 2023,
19 the HBO Max Accused Streaming Service infringed claim 2 of the '660 patent by
20 performing the method of claim 1 of the '660 patent wherein the BaseURL
21 "a/a1.mp4" is used as a basic URI, whereas the BaseURL element "a/a4.mp4" is used
22 as the alternative BaseURL element, for at least the reasons set forth in the
23 preliminary infringement analysis detailed in Exhibit 11.

24 118. Claim 3 of the '660 patent recites the method of claim 1, wherein the
25 URL is an absolute URL or a relative URL.

26 119. On information and belief, from May 27, 2020 through May 23, 2023,
27 the HBO Max Accused Streaming Service infringed claim 3 of the '660 patent via the
28 HBO Max Accused Streaming Service by performing the method of claim 1 where the

1 URL is an absolute or relative URL, for at least the reasons set forth in the preliminary
2 infringement analysis detailed in Exhibit 11.

3 120. Claim 4 of the '660 patent recites the method of claim 1, wherein the
4 metadata of the media content is a Media Presentation Description (MPD), wherein
5 the MPD is a formalized description of a media presentation related to the media
6 content, wherein the media presentation includes one or more periods, wherein the
7 period includes one or more groups, wherein the group includes one or more
8 representations, and wherein the representation includes one or more segments of the
9 media content.

10 121. On information and belief, from May 27, 2020 through May 23, 2023,
11 the HBO Max Accused Streaming Service infringed claim 4 of the '660 patent by
12 performing the method of claim 1 where the metadata of the media content is a Media
13 Presentation Description (MPD), wherein the MPD is a formalized description of a
14 media presentation related to the media content, wherein the media presentation
15 includes one or more periods, wherein the period includes one or more groups,
16 wherein the group includes one or more representations, and wherein the
17 representation includes one or more segments of the media content, for at least the
18 reasons set forth in the preliminary infringement analysis detailed in Exhibit 11.

19 122. Claim 10 of the '660 patent recites the method of claim 1, further
20 comprising sending metadata of the media content to the client.

21 123. On information and belief, from May 27, 2020 through May 23, 2023,
22 the HBO Max Accused Streaming Service infringed claim 10 of the '660 patent by
23 performing the method of claim 1 and sending metadata of the media content to the
24 client, for at least the reasons set forth in the preliminary infringement analysis
25 detailed in Exhibit 11.

26 124. Upon information and belief, Defendants have induced others to infringe
27 at least claims 11, 12, 13, and 14 of the '660 patent under 35 U.S.C. § 271(b) by,
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1 among other things, and with specific intent or willful blindness, actively encouraging
2 or aiding and abetting others to infringe, including but not limited to Defendants'
3 partners, customers, and/or users whose use of the Accused Instrumentalities
4 constitutes direct infringement of at least claims 11, 12, 13, and 14 of the '660 patent.

5 125. For example, Defendants actively induced and encouraged their partners,
6 customers, and/or users to directly infringe 11, 12, 13, and 14 of the '660 patent by at
7 least: (1) coding infringing methods into their streaming media content, (2) knowingly
8 and strategically placing enticing play icons (e.g., "▶") and buttons (e.g., "Watch" or
9 "Watch Now") with their streaming media content, and (3) actively encouraging their
10 users to click the play icons and buttons, which necessarily triggers the performance
11 of these known infringing methods in client devices, as set forth in the preliminary
12 infringement analysis detailed in Exhibit 11.

13 126. As a further example, Defendants have actively and knowingly
14 encouraged infringement of the '660 patent by, in addition to continuing to
15 strategically place the enticing icons and buttons mentioned above, instructing users of
16 various streaming devices, such as phones or tablets, computers, and smart TVs,
17 including but not limited to Amazon FireTVs, Android TVs, Apple TVs, Cox Contour
18 2 and Contour Stream Players, LG Smart TVs, PlayStations, Rokus, Samsung TVs,
19 VIZIO Smart TVs, Xboxs, XClass TVs, Xfinity X1 and Flex TVs, PCs, Macs,
20 Chromebooks, Android phones or tablets, and iPhone, iPad, and iPod touch devices,
21 among others, to stream Defendants' DASH-enabled VOD:
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The screenshot shows the HBO Max Help Center interface. The main heading is "Which devices work with HBO Max?". Below this, it states "The following devices are supported by HBO Max." and "Choose a device type" with tabs for "Phone or Tablet", "Computer", and "TV". Under the "TV" tab, it lists supported TV devices: Amazon Fire TV, Android TV, Apple TV, Cox Contour 2 and Contour Stream Player, LG Smart TV, PlayStation, Roku, and Samsung TV. It also includes instructions for installing HBO Max on Amazon Fire TV and how to sign in or sign up.

14 (See <https://help.hbomax.com/do-en/Answer/Detail/000001243> (last accessed July 24,
15 2023).)

16 127. Claim 11 of the '660 patent recites a method for providing media content
17 performed by a client, comprising: transmitting, to a server, a request for a segment of
18 the media content based on a metadata, wherein the metadata comprises multiple
19 BaseURL elements and wherein identical segments are accessible at locations
20 indicated by URLs resolved with respect to the multiple BaseURL elements; and
21 receiving the requested segment of the media content from the server, wherein the
22 URL of the requested segment is generated based on a selected BaseURL element
23 among the multiple BaseURL elements.

24 128. Upon information and belief, one or more of the Defendants have and
25 continue to actively induce infringement of claim 11 of the '660 patent by actively
26 inducing their partners, customers, and/or users to perform the method of claim 11 of
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1 the '660 patent with their client devices, as set forth above in paragraphs 125-127 and
2 in the preliminary infringement analyses set forth in Exhibit 11.

3 129. On information and belief, from May 27, 2020 through May 23, 2023,
4 one or more of the Defendants induced infringement of claim 11 of the '660 patent via
5 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
6 analysis detailed in Exhibit 11.

7 130. Claim 12 of the '660 patent recites the method of claim 11, wherein the
8 first BaseURL element among the multiple BaseURL elements is used as a basic
9 Universal Resource Indicator (URI), and BaseURL elements other than the first
10 BaseURL element are used as alternative BaseURL elements.

11 131. Upon information and belief, one or more of the Defendants have and
12 continue to actively induce infringement of claim 12 of the '660 patent by actively
13 inducing their partners, customers, and/or users to perform the method of claim 11 of
14 the '660 patent with their client devices wherein the BaseURL element "a/a1.mp4" is
15 used as a basic URI, whereas the BaseURL element "a/a4.mp4" is used as the
16 alternative BaseURL element, as set forth above in paragraphs 125-127 and in the
17 preliminary infringement analyses set forth in Exhibit 11.

18 132. On information and belief, from May 27, 2020 through May 23, 2023,
19 one or more of the Defendants induced infringement of claim 12 of the '660 patent via
20 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
21 analysis detailed in Exhibit 11.

22 133. Claim 13 of the '660 patent recites a method of claim 11, wherein the
23 URL is an absolute URL or a relative URL.

24 134. Upon information and belief, one or more of the Defendants have and
25 continue to actively induce infringement of claim 13 of the '660 patent by actively
26 inducing their partners, customers, and/or users to perform the method of claim 11 of
27 the '660 patent with their client devices wherein the Request URL is an absolute URL,
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1 as denoted by “https://”, as set forth above in paragraphs 125-127 and in the
2 preliminary infringement analyses set forth in Exhibit 11.

3 135. On information and belief, from May 27, 2020 through May 23, 2023,
4 one or more of the Defendants induced infringement of claim 13 of the ’660 patent via
5 the HBO Max Accused Streaming Service as set forth in the preliminary infringement
6 analysis detailed in Exhibit 11.

7 136. Claim 14 of the ’660 patent recites method of claim 11, wherein the
8 metadata of the media content is a Media Presentation Description (MPD), wherein
9 the MPD is a formalized description of a media presentation related to the media
10 content, wherein the media presentation includes one or more periods, wherein the
11 period includes one or more groups, wherein the group includes one or more
12 representations, and wherein the representation includes one or more segments of the
13 media content.

14 137. Upon information and belief, one or more of the Defendants have and
15 continue to actively induce infringement of claim 14 of the ’660 patent by actively
16 inducing their partners, customers, and/or users to perform the method of claim 11 of
17 the ’660 patent with their client devices wherein the metadata of the media content
18 “Succession, S1,E1” is a MPD, as set forth above in paragraphs 125-127 and in the
19 preliminary infringement analyses set forth in Exhibit 11.

20 138. On information and belief, from May 27, 2020 through May 23, 2023,
21 one or more of the Defendants induced infringement of claim 14 of the ’660 patent via
22 the HBO Max Accused Streaming Service as set forth in the preliminary infringement
23 analysis detailed in Exhibit 11.

24 139. On information and belief, one or more of the Defendants have engaged
25 and continue to engage in such actions with specific intent to cause infringement or
26 with willful blindness to the resulting infringement because Defendants have had
27 actual knowledge of or should have had actual knowledge of the ’660 patent and that
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1 their acts were inducing infringement of the '660 patent since at least June 11, 2019,
2 when Helios sent the First Notice Letter; or, if not then, since at least February 12,
3 2020, when Helios provided detailed claim charts of Defendants' infringement of the
4 '660 patent; or, if not then, since at least April 21, 2021, when Helios provided
5 exemplary and redacted claim charts demonstrating Defendants' infringement; or, if
6 not then, since at least the time of July 29, 2021, when Helios provided unredacted
7 exemplary claim charts for the DASH Patents demonstrating Defendants'
8 infringement; or, if not then, since at least the time of the parties' September 14, 2021
9 phone call, during which the parties discussed the exemplary claim charts of the
10 DASH Patents and discussed a royalty rate and licensing terms; or, if not then, since at
11 least the time of October 18, 2021, where Helios offered Defendants a license for the
12 DASH Patents under FRAND terms; or, if not then, since at least the time of the
13 WBD Merger; or, if not then, since at least the time of receiving Plaintiff's Fifth
14 Notice Letter on June 23, 2023; or, if not then, since at least the time of receiving the
15 Complaint in this matter and Exhibit 11 thereto in view of (i) Defendants' extensive
16 knowledge of and experience with MPEG-DASH, (ii) Defendants' knowledge of how
17 they were encouraging their partners, customers, and users to stream their MPEG-
18 DASH-enabled VOD via the Accused Instrumentalities, and (iii) the parties' pre-suit
19 communications regarding the Asserted Patents and Defendants' websites, apps, and
20 services, which communications detailed how Defendants directly infringed and
21 induced the direct infringement of the asserted claims of the '660 patent.

22 140. In its First, Second, Third, Fourth, and Fifth Notice Letters, Helios
23 clearly identified the MPEG-DASH standard to which the Asserted Patents pertained,
24 identified the Asserted Patents, informed Defendants that the Asserted Patents were
25 essential to MPEG-DASH, provided proof that it knew Defendants were utilizing the
26 MPEG-DASH standard in providing streaming VOD via its websites and apps, and
27 specified how the Accused Instrumentalities infringed Helios's Asserted Patents.
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1 141. Notwithstanding the above, Defendants continued to infringe the '660
2 patent despite having actual knowledge of or being willfully blind to their
3 infringement.

4 142. On information and belief, based on the facts set forth in in the foregoing
5 paragraphs, Defendants' infringement has been and continues to be willful.

6 143. Plaintiff has been harmed by Defendants' infringing activities.

7 **COUNT III – INFRINGEMENT OF U.S. PATENT NO. 10,027,736**

8 144. The allegations set forth in the foregoing paragraphs 1 through 143 are
9 incorporated into this Third Claim for Relief.

10 145. On July 17, 2018, the '736 Patent was duly and legally issued by the
11 United States Patent and Trademark Office under the title "Apparatus and Method for
12 Providing Streaming Content." A true and correct copy of the '736 patent is attached
13 as Exhibit 12.

14 146. Helios is the assignee and owner of all right, title, and interest in and to
15 the '736 patent, including the exclusive right to assert all causes of action arising
16 under the '736 patent and the right to collect any remedies for infringement of it.

17 147. Upon information and belief, Defendants directly infringed at least
18 claims 9, 12, 13, and 15 and actively induced the infringement of at least claims 1, 4,
19 5, and 7 of the '736 patent by selling, offering to sell, making, using, and/or providing
20 and causing to be used streaming media content (the "Accused Instrumentalities"),
21 including one or more videos on demand ("VOD") and media content such as those
22 available at <https://play.hbomax.com/>, as set forth in detail in the preliminary and
23 exemplary claim chart attached as Exhibit 13.

24 148. On information and belief, the Accused Instrumentalities have and
25 continue to be used, marketed, provided to, and/or used by or for each Defendants'
26 partners, clients, customers, and end users across the country and in this District.
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1 149. Claim 9 of the '736 patent recites a method of providing media content
2 by a server performed by a processor, the method comprising: receiving a request for
3 a segment of the media content using a URL of the segment from a terminal, the URL
4 being generated based on the selected BaseURL element; providing the segment to the
5 terminal, wherein the terminal selects a BaseURL element from the multiple
6 BaseURL elements based on the metadata of the media content, wherein the metadata
7 is Media Presentation Description (MPD), wherein the MPD describes one or more
8 periods, wherein the period includes one or more groups, wherein the group includes
9 one or more representation, wherein the representation includes one or more segments
10 of the media content, wherein the receiver receives identical segments that are
11 accessible at multiple locations indicated by URLs resolved with respect to the
12 respective BaseURL elements, and a first BaseURL element among the BaseURL
13 elements is used as a base Universal Resource Indicator (URI).

14 150. Upon information and belief, from May 27, 2020 through May 23, 2023,
15 the HBO Max Accused Streaming Service performed the method of claim 9 of the
16 '736 patent, and therefore infringed claim 9 of the '736 patent, for at least the reasons
17 set forth in the preliminary infringement analysis detailed in Exhibit 13.

18 151. Claim 12 of the '736 patent recites the method of claim 9, wherein the
19 media content is requested using a URI generated based on a resource type including
20 bitrate, vertical resolution, or horizontal resolution.

21 152. Upon information and belief, from May 27, 2020 through May 23, 2023,
22 the HBO Max Accused Streaming Service infringed claim 12 of the '736 patent by
23 performing the method of claim 9 where the media content is requested using a URI
24 generated based on the client/terminal according to the bandwidth (bitrate), for at least
25 the reasons set forth in the preliminary infringement analysis detailed in Exhibit 13.

26 153. Claim 13 of the '736 patent recites the method of claim 9, wherein the
27 request is sent using an HTTP GET method.

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1 154. Upon information and belief, from May 27, 2020 through May 23, 2023,
2 the HBO Max Accused Streaming Service infringed claim 13 of the '736 patent by
3 performing the method of claim 9 where the request is sent using an HTTP GET
4 method, for at least the reasons set forth in the preliminary infringement analysis
5 detailed in Exhibit 13.

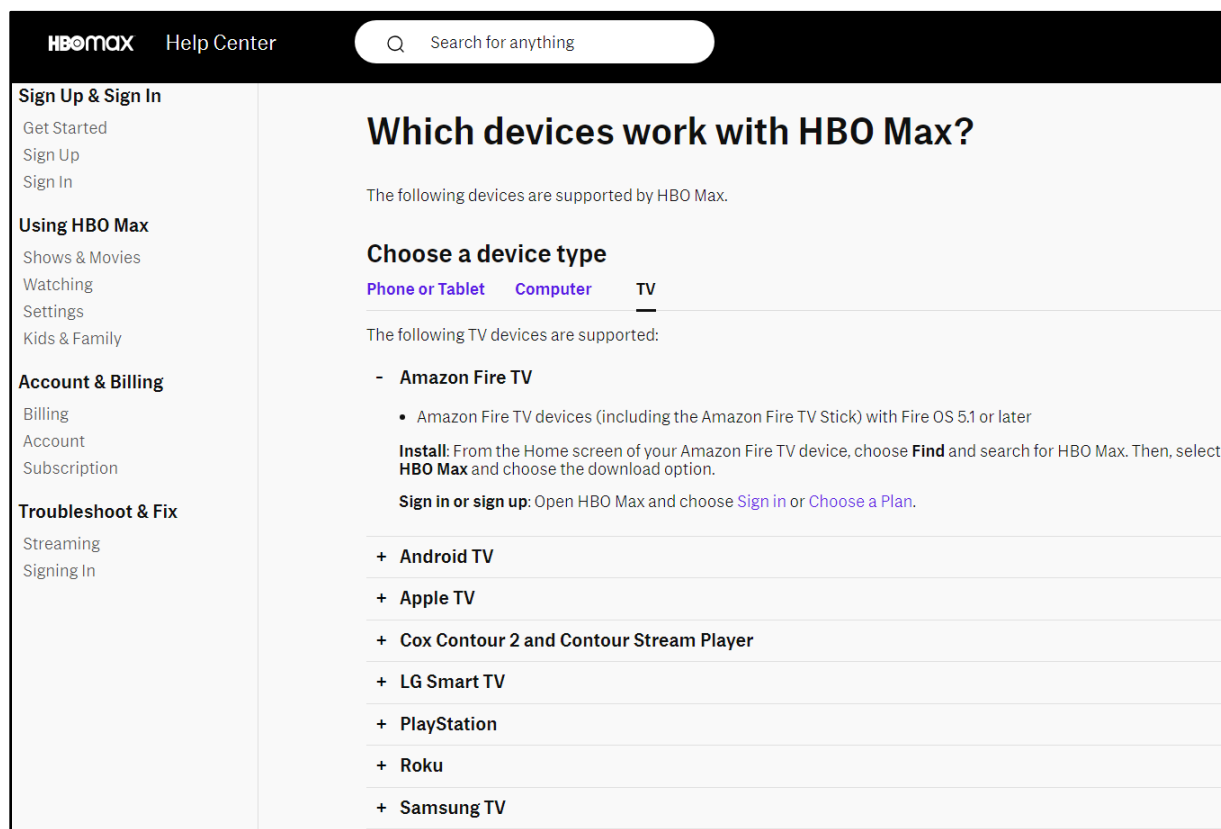
6 155. Claim 15 of the '736 patent recites the method of claim 9, wherein the
7 URL is an absolute URL or a relative URL.

8 156. Upon information and belief, from May 27, 2020 through May 23, 2023,
9 the HBO Max Accused Streaming Service infringed claim 15 of the '736 patent by
10 performing the method of claim 9 the URL is an absolute URL or a relative URL as
11 denoted by “https://”, for at least the reasons set forth in the preliminary infringement
12 analysis detailed in Exhibit 13.

13 157. Upon information and belief, Defendants have induced others to infringe
14 at least claims 1, 4, 5, and 7 of the '736 patent under 35 U.S.C. § 271(b) by, among
15 other things, and with specific intent or willful blindness, actively encouraging or
16 aiding and abetting others to infringe, including but not limited to Defendants'
17 partners, customers, and/or users whose use of the Accused Instrumentalities
18 constitutes direct infringement of at least claims 1, 4, 5, and 7 of the '736 patent.

19 158. For example, Defendants actively induced and encouraged their partners,
20 customers, and/or users to directly infringe 1, 4, 5, and 7 of the '736 patent by at least:
21 (1) coding infringing methods into their streaming media content, (2) knowingly and
22 strategically placing enticing play icons (e.g., “▶”) and buttons (e.g., “Watch” or
23 “Watch Now”) with their streaming media content, and (3) actively encouraging their
24 users to click the play icons and buttons, which necessarily triggers the performance
25 of these known infringing methods in client devices, as set forth in the preliminary
26 infringement analysis detailed in Exhibit 13.
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1 159. As a further example, Defendants have actively and knowingly
 2 encouraged infringement of the '736 patent by, in addition to continuing to
 3 strategically place the enticing icons and buttons mentioned above, instructing users of
 4 various streaming devices, such as phones or tablets, computers, and smart TVs,
 5 including but not limited to Amazon FireTVs, Android TVs, Apple TVs, Cox Contour
 6 2 and Contour Stream Players, LG Smart TVs, PlayStations, Rokus, Samsung TVs,
 7 VIZIO Smart TVs, Xboxs, XClass TVs, Xfinity X1 and Flex TVs, PCs, Macs,
 8 Chromebooks, Android phones or tablets, and iPhone, iPad, and iPod touch devices,
 9 among others, to stream Defendants' DASH-enabled VOD:



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23 (See <https://help.hbomax.com/do-en/Answer/Detail/000001243> (last accessed July 24,
24 2023).)

25 160. Claim 1 of the '736 patent recites a method for receiving media content
 26 in a terminal performed by a processor, the method comprising: receiving metadata of
 27 media content, the metadata comprising an attribute with multiple BaseURL elements,
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1 selecting a BaseURL element from the multiple BaseURL elements; sending a request
2 for a segment of the media content using a URL of the segment to a server, the URL
3 being generated based on the selected BaseURL element; receiving the segment from
4 the server, wherein the metadata is Media Presentation Description (MPD), wherein
5 the MPD describes one or more periods, wherein the period includes one or more
6 groups, wherein the group includes one or more representation, wherein the
7 representation includes one or more segments of the media content, wherein the
8 receiver receives identical segments that are accessible at multiple locations indicated
9 by URLs resolved with respect to the respective BaseURL elements, and a first
10 BaseURL element among the BaseURL elements is used as a base Universal Resource
11 Indicator (URI).

12 161. Upon information and belief, one or more of the Defendants have and
13 continue to actively induce infringement of claim 1 of the '736 patent by actively
14 inducing their partners, customers, and/or users to perform the method of claim 1 of
15 the '736 patent with their client devices, as set forth above in paragraphs 158-160 and
16 in the preliminary infringement analyses set forth in Exhibit 13.

17 162. On information and belief, from May 27, 2020 through May 23, 2023,
18 one or more of the Defendants induced infringement of claim 1 of the '736 patent via
19 the HBO Max Accused Streaming Service as set forth in the preliminary infringement
20 analysis detailed in Exhibit 13.

21 163. Claim 4 recites the method of claim 1, wherein the media content is
22 requested using a URI generated based on a resource type including bitrate, vertical
23 resolution, or horizontal resolution.

24 164. Upon information and belief, one or more of the Defendants have and
25 continue to actively induce infringement of claim 4 of the '736 patent by actively
26 inducing their partners, customers, and/or users to perform the method of claim 1 of
27 the '736 patent with their client devices wherein the URI based on the BaseURL
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1 selected by the client/terminal is according to the bandwidth (bitrate), as set forth
2 above in paragraphs 158-160 and in the preliminary infringement analyses set forth in
3 Exhibit 13.

4 165. On information and belief, from May 27, 2020 through May 23, 2023,
5 one or more of the Defendants induced infringement of claim 4 of the '736 patent via
6 the HBO Max Accused Streaming Service as set forth in the preliminary infringement
7 analysis detailed in Exhibit 13.

8 166. Claim 5 of the '736 patent recites a method of claim 1, wherein the
9 request is sent using an HTTP GET method.

10 167. Upon information and belief, one or more of the Defendants have and
11 continue to actively induce infringement of claim 5 of the '736 patent by actively
12 inducing their partners, customers, and/or users to perform the method of claim 1 of
13 the '736 patent with their client devices where the request is sent using an HTTP GET
14 method, as set forth above in paragraphs 158-160 and in the preliminary infringement
15 analyses set forth in Exhibit 13.

16 168. On information and belief, from May 27, 2020 through May 23, 2023,
17 one or more of the Defendants induced infringement of claim 5 of the '736 patent via
18 the HBO Max Accused Streaming Service as set forth in the preliminary infringement
19 analysis detailed in Exhibit 13.

20 169. Claim 7 of the '736 patent recites a method of claim 1, wherein the URL
21 is an absolute URL or a relative URL.

22 170. Upon information and belief, one or more of the Defendants have and
23 continue to actively induce infringement of claim 7 of the '736 patent by actively
24 inducing their partners, customers, and/or users to perform the method of claim 1 of
25 the '736 patent with their client devices wherein the Request URL is an absolute URL,
26 as denoted by "https://", as set forth above in paragraphs 158-160 and in the
27 preliminary infringement analyses set forth in Exhibit 13.
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1 171. On information and belief, from May 27, 2020 through May 23, 2023,
2 one or more of the Defendants induced infringement of claim 7 of the '736 patent via
3 the HBO Max Accused Streaming Service as set forth in the preliminary infringement
4 analysis detailed in Exhibit 13.

5 172. On information and belief, one or more of the Defendants have engaged
6 and continue to engage in such actions with specific intent to cause infringement or
7 with willful blindness to the resulting infringement because Defendants have had
8 actual knowledge of or should have had actual knowledge of the '736 patent and that
9 their acts were inducing infringement of the '736 patent since at least June 11, 2019,
10 when Helios sent the First Notice Letter; or, if not then, since at least February 12,
11 2020, when Helios provided detailed claim charts of Defendants' infringement of the
12 '660 patent; or, if not then, since at least the time of April 21, 2021, when Helios
13 provided exemplary and redacted claim charts demonstrating Defendants'
14 infringement; or, if not then, since at least the time of July 29, 2021, when Helios
15 provided unredacted exemplary claim charts for the DASH Patents demonstrating
16 Defendants' infringement; or, if not then, since at least the time of the parties'
17 September 14, 2021 phone call, during which the parties discussed the exemplary
18 claim charts of the DASH Patents and discussed a royalty rate and licensing terms; or,
19 if not then, since at least the time of October 18, 2021, where Helios offered
20 Defendants a license for the DASH Patents under FRAND terms; or, if not then, since
21 at least the time of the WBD Merger; or, if not then, since at least the time of
22 receiving Plaintiff's Fifth Notice Letter on June 23, 2023; or, if not then, since at least
23 the time of receiving the Complaint in this matter and Exhibit 13 thereto in view of (i)
24 Defendants' extensive knowledge of and experience with MPEG-DASH, (ii)
25 Defendants' knowledge of how they were encouraging their partners, customers, and
26 users to stream their MPEG-DASH-enabled VOD via the Accused Instrumentalities,
27 and (iii) the parties' pre-suit communications regarding the Asserted Patents and
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1 Defendants' websites, apps, and services, which communications detailed how
2 Defendants directly infringed and induced the direct infringement of the asserted
3 claims of the '736 patent.

4 173. In its First, Second, Third, Fourth, and Fifth Notice Letters, Helios
5 clearly identified the MPEG-DASH standard to which the Asserted Patents pertained,
6 identified the Asserted Patents, informed Defendants that the Asserted Patents were
7 essential to MPEG-DASH, provided proof that it knew Defendants were utilizing the
8 MPEG-DASH standard in providing streaming VOD via its websites and apps, and
9 specified how the Accused Instrumentalities infringed Helios's Asserted Patents.

10 174. Notwithstanding the above, Defendants continued to infringe the '736
11 patent despite having actual knowledge of or being willfully blind to their
12 infringement.

13 175. On information and belief, based on the facts set forth in in the foregoing
14 paragraphs, Defendants' infringement has been and continues to be willful.

15 176. Plaintiff has been harmed by Defendants' infringing activities.

16 **COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 10,362,130**

17 177. The allegations set forth in the foregoing paragraphs 1 through 176 are
18 incorporated into this Fourth Claim for Relief.

19 178. On July 23, 2019, the '130 Patent was duly and legally issued by the
20 United States Patent and Trademark Office under the title "Apparatus and Method for
21 Providing Streaming Contents." A true and correct copy of the '130 patent is attached
22 as Exhibit 14.

23 179. Helios is the assignee and owner of all right, title, and interest in and to
24 the '130 patent, including the exclusive right to assert all causes of action arising
25 under the '130 patent and the right to collect any remedies for infringement of it.

26 180. Upon information and belief, Defendants have and continue to infringe at
27 least claims 1, 2, and 3 of the '130 patent by selling, offering to sell, making, using,
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1 and/or providing and causing to be used streaming media content (the “Accused
2 Instrumentalities”), including one or more videos on demand (“VOD”) and media
3 content such as those available at <https://play.hbonow.com/>, <https://play.hbomax.com/>
4 and <https://play.max.com/>, as set forth in detail in the preliminary and exemplary
5 claim chart attached as Exhibits 15-17.

6 181. On information and belief, the Accused Instrumentalities have and
7 continue to be used, marketed, provided to, and/or used by or for each Defendants’
8 partners, clients, customers, and end users across the country and in this District.

9 182. Claim 1 of the ’130 patent recites a method for providing media content
10 performed by a processor in a server, the method comprising: receiving a request for
11 the media content from a client; transmitting the media to the client based on a Media
12 Presentation Description (MPD) of the media content, wherein the MPD includes one
13 or more periods, wherein the period comprises one or more groups, wherein the group
14 comprises one or more representations, wherein the representation comprises one or
15 more segments, wherein the representation includes a bandwidth attribute related to
16 bandwidth for a hypothetical constant bitrate channel in bits per second (bps), wherein
17 the client is assured of having enough data for continuous playout after buffering for
18 minbuffertime when the representation is delivered to the client, wherein the segment
19 includes sub-segments indexed by segment index, wherein the MPD includes at least
20 one of (i) frame rate, or (ii) timescale describing the number of time units in one
21 second.

22 183. Upon information and belief, from July 23, 2019 through May 27, 2020,
23 the HBO NOW Accused Streaming Service performed the method of claim 1 of the
24 ’130 patent, and therefore infringed claim 1 of the ’130 patent, for at least the reasons
25 set forth in the preliminary infringement analysis detailed in Exhibit 15.

26 184. Upon information and belief, from May 27, 2020 through May 23, 2023,
27 the HBO Max Accused Streaming Service performed the method of claim 1 of the
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1 '130 patent, and therefore infringed claim 1 of the '130 patent, for at least the reasons
2 set forth in the preliminary infringement analysis detailed in Exhibit 16.

3 185. On information and belief, since May 23, 2023, the Max Accused
4 Streaming Service has and continues to perform the method of claim 1 of the '130
5 patent, and therefore has and continues to infringe claim 1 of the '130 patent, for at
6 least the reasons set forth in the preliminary infringement analysis detailed in Exhibit
7 17.

8 186. Claim 2 of the '130 patent recites the method of claim 1, wherein each of
9 the representations starts from a start time of the period and continues to an ending
10 point of the period.

11 187. On information and belief, from July 23, 2019 through May 27, 2020, the
12 HBO NOW Accused Streaming Service infringed claim 2 of the '130 patent by
13 performing the method of claim 1 of the '130 patent where each of the representations
14 starts from a start time of the period and continues to an ending point of the period, for
15 at least the reasons set forth in the preliminary infringement analysis detailed in
16 Exhibit 15.

17 188. On information and belief, from May 27, 2020 through May 23, 2023,
18 the HBO Max Accused Streaming Service infringed claim 2 of the '130 patent by
19 performing the method of claim 1 of the '130 patent where each of the representations
20 starts from a start time of the period and continues to an ending point of the period, for
21 at least the reasons set forth in the preliminary infringement analysis detailed in
22 Exhibit 16.

23 189. On information and belief, since May 23, 2023, the Max Accused
24 Streaming Service has and continues to infringe claim 2 of the '130 patent by
25 performing the method of claim 1 of the '130 patent where each of the representations
26 starts from a start time of the period and continues to an ending point of the period, for
27 at least the reasons set forth in the preliminary infringement analysis detailed in
28 Exhibit 17.

1 190. Claim 3 of the '130 patent recites the method of claim 2, wherein the
2 start time of the period is determined [by the] below methods, i) when a start attribute
3 exists in a first period element of the first period, a start time of the first period is
4 equal to the start attribute, ii) when a start attribute does not exist in the first period
5 element of the first period, and when a second period element of the second period
6 includes a duration attribute, the start time of the first period is determined by adding
7 the duration attribute of the second period element to a start time of the second period,
8 iii) when a start attribute does not exist in the first period element of the first period,
9 and when the first period is the first of the one or more periods, the start time of the
10 first period is set to 0, wherein the second period is previous period with respect to the
11 first period.

12 191. On information and belief, from July 23, 2019 through May 27, 2020, the
13 HBO NOW Accused Streaming Service infringed claim 3 of the '130 patent by
14 performing the method of claim 2 of the '130 patent wherein the start attribute does
15 not exist in the first period element of the first period, and when the first period is the
16 first of the one or more periods, the start time of the first period is set to zero, for at
17 least the reasons set forth in the preliminary infringement analysis detailed in Exhibit
18 15.

19 192. On information and belief, from May 27, 2020 through May 23, 2023,
20 the HBO Max Accused Streaming Service infringed claim 3 of the '130 patent by
21 performing the method of claim 2 of the '130 patent where the start attribute does not
22 exist in the first period element of the first period, and when the first period is the first
23 of the one or more periods, the start time of the first period is set to zero, for at least
24 the reasons set forth in the preliminary infringement analysis detailed in Exhibit 16.

25 193. On information and belief, since May 23, 2023, the Max Accused
26 Streaming Service has and continues to infringe claim 3 of the '130 patent by
27 performing the method of claim 2 of the '130 patent where the start attribute exists in
28 a first period element of the first period and a start time of the period is determined by

1 a start attribute set to zero, for at least the reasons set forth in the preliminary
2 infringement analysis detailed in Exhibit 17.

3 194. In its First, Second, Third, Fourth, and Fifth Notice Letters, Helios
4 clearly identified the MPEG-DASH standard to which the Asserted Patents pertained,
5 identified the Asserted Patents, informed Defendants that the Asserted Patents were
6 essential to MPEG-DASH, provided proof that it knew Defendants were utilizing the
7 MPEG-DASH standard in providing streaming VOD via its websites and apps, and
8 specified how the Accused Instrumentalities infringed Helios's Asserted Patents.

9 195. Notwithstanding the above, Defendants continued to infringe the '130
10 patent despite having actual knowledge of or being willfully blind to their
11 infringement.

12 196. On information and belief, based on the facts set forth in in the foregoing
13 paragraphs, Defendants' infringement has been and continues to be willful.

14 197. Plaintiff has been harmed by Defendants' infringing activities.

15 **COUNT V – INFRINGEMENT OF U.S. PATENT NO. 8,909,805**

16 198. The allegations set forth in the foregoing paragraphs 1 through 197 are
17 incorporated into this Fifth Claim for Relief.

18 199. On December 9, 2014, the '805 Patent was duly and legally issued by the
19 United States Patent and Trademark Office under the title "Apparatus and Method for
20 Providing Streaming Content." A true and correct copy of the '805 patent is attached
21 as Exhibit 18.

22 200. Helios is the assignee and owner of all right, title, and interest in and to
23 the '805 patent, including the exclusive right to assert all causes of action arising
24 under the '805 patent and the right to collect any remedies for infringement of it.

25 201. Upon information and belief, one or more Defendants have and continue
26 to actively induce the infringement of at least claims 1 and 2 of the '805 patent by
27 selling, offering to sell, making, using, and/or providing and causing to be used
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1 streaming media content (the “Accused Instrumentalities”), including one or more
2 videos on demand (“VOD”) and media content such as those available at
3 <https://play.hbonow.com/>, <https://play.hbomax.com/>, <https://play.max.com/>, as set
4 forth in detail in the preliminary and exemplary claim chart attached as Exhibits 19-
5 21.

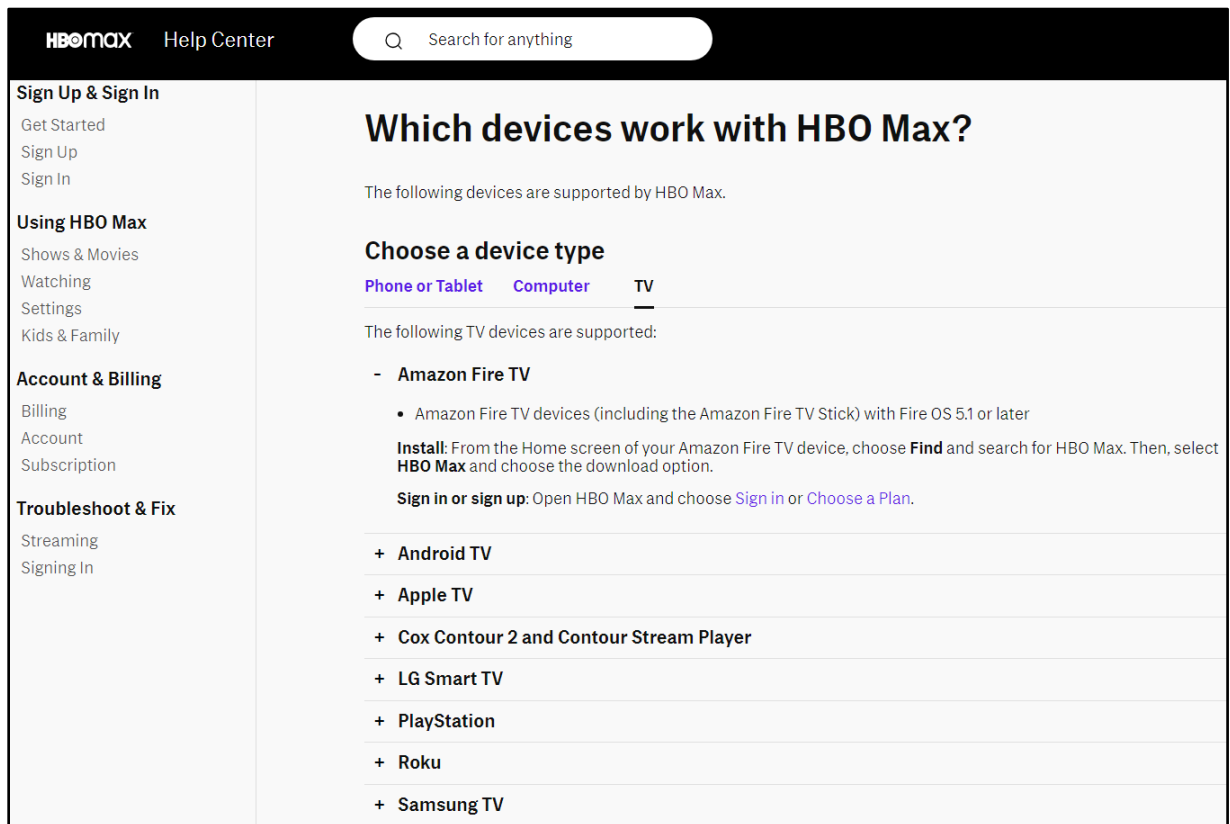
6 202. On information and belief, the Accused Instrumentalities have and
7 continue to be used, marketed, provided to, and/or used by or for each of Defendants’
8 partners, clients, customers, and end users across the country and in this District.

9 203. Upon information and belief, one or more Defendants have induced and
10 continue to induce others to infringe at least claims 1 and 2 of the ’805 patent under
11 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful
12 blindness, actively encouraging or aiding and abetting others to infringe, including but
13 not limited to Defendants’ partners, customers, and/or users whose use of the Accused
14 Instrumentalities constitutes direct infringement of at least claims 1 and 2 of the ’805
15 patent.

16 204. For example, Defendants actively induce and encourage their partners,
17 customers, and/or users to directly infringe claims 1 and 2 of the ’805 patent by at
18 least: (1) coding infringing methods into their streaming media content, (2) knowingly
19 and strategically placing enticing play icons (e.g., “▶”) and buttons (e.g., “Watch” or
20 “Watch Now”) with their streaming media content, and (3) actively encouraging their
21 users to click the play icons and buttons, which necessarily triggers the performance
22 of these known infringing methods in client devices, as set forth in the preliminary
23 infringement analysis detailed in Exhibits 19-21.

24 205. As a further example, Defendants have and continue to actively and
25 knowingly encourage infringement of the ’805 patent by, in addition to continuing to
26 strategically place the enticing icons and buttons mentioned above, instructing users of
27 various streaming devices, such as phones or tablets, computers, and smart TVs,
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1 including but not limited to Amazon FireTVs, Android TVs, Apple TVs, Cox Contour
 2 and Contour Stream Players, LG Smart TVs, PlayStations, Rokus, Samsung TVs,
 3 VIZIO Smart TVs, Xboxs, XClass TVs, Xfinity X1 and Flex TVs, PCs, Macs,
 4 Chromebooks, Android phones or tablets, and iPhone, iPad, and iPod touch devices,
 5 among others, to stream Defendant's DASH-enabled VOD via the Accused
 6 Instrumentalities:



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20 (See <https://help.hbomax.com/do-en/Answer/Detail/000001243> (last accessed July 24,
 21 2023).)

22 206. Claim 1 of the '805 patent recites a method of providing media, the
 23 method comprising: receiving metadata of media, the metadata comprising one or
 24 more periods; processing the received metadata and extracting information included in
 25 the metadata, wherein the metadata includes a range attribute; requesting a segment
 26 suitable for a specific interval based on a request for bytes of a resource indicated by a
 27 URL that are designated by the range attribute; accessing segments of the media based
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1 on information provided by the metadata; decoding and rendering data of the media
2 that is included in the segments; wherein each of the periods comprises one or more
3 representations of the media; wherein each of the representations starts from a
4 beginning point of a period including each of the representation and continues to an
5 ending point of the period, and comprises one or more segments; and wherein
6 determining the start of a first period among one or more period comprises: when a
7 start attribute exists in the first period element of the first period, a start time of the
8 first period is equivalent to a value of the start attribute, when a start attribute does not
9 exist in the first period element of the first period, and when a second period element
10 of the second period includes a duration attribute, the start time of the first period is
11 obtained by adding a value of the duration attribute of the second period element to a
12 start time of the second period, and when a start attribute does not exist in the first
13 period element of the first period, and when the first period is the first of the one or
14 more periods, the start time of the first period is zero.

15 207. Upon information and belief, one or more Defendants have and continue
16 to actively induce infringement of claim 1 of the '805 patent by actively inducing their
17 partners, customers, and/or users to perform the method of claim 1 of the '805 patent
18 with their client devices, as set forth above in paragraphs 204-206 and in the
19 preliminary infringement analyses set forth in Exhibits 19-21.

20 208. On information and belief, from June 11, 2019 through May 27, 2020,
21 one or more of the Defendants induced infringement of claim 1 of the '805 patent via
22 the HBO NOW Accused Streaming Service, as set forth in the preliminary
23 infringement analysis in Exhibit 19.

24 209. On information and belief, from May 27, 2020 through May 23, 2023,
25 one or more of the Defendants induced infringement of claim 1 of the '805 patent via
26 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
27 analysis in Exhibit 20.

1 210. On information and belief, since May 23, 2023, one or more of the
2 Defendants have and continue to induce the direct infringement of claim 1 of the '805
3 patent via the Max Accused Streaming Service, as set forth in the preliminary
4 infringement analysis in Exhibit 21.

5 211. Claim 2 of the '805 patent recites the method of claim 1, wherein the
6 metadata is a Media Presentation Description (MPD) of the media.

7 212. Upon information and belief, Defendants have and continue to actively
8 induce infringement of claim 2 of the '805 patent by actively inducing their partners,
9 customers, and/or users to perform the method of claim 1 of the '805 patent with their
10 client devices wherein the metadata is an MPD, as set forth above in paragraphs 204-
11 206 and in the preliminary infringement analyses set forth in Exhibits 19-21.

12 213. On information and belief, from June 11, 2019 through May 27, 2020,
13 one or more of the Defendants induced infringement of claim 2 of the '805 patent via
14 the HBO NOW Accused Streaming Service, as set forth in the preliminary
15 infringement analysis in Exhibit 19.

16 214. On information and belief, from May 27, 2020 through May 23, 2023,
17 one or more of the Defendants induced infringement of claim 2 of the '805 patent via
18 the HBO Max Accused Streaming Service as set forth in the preliminary infringement
19 analysis detailed in Exhibit 20.

20 215. On information and belief, since May 23, 2023, one or more of the
21 Defendants have and continue to induce the direct infringement of claim 2 of the '805
22 patent via the Max Accused Streaming Service as set forth in the preliminary
23 infringement analysis detailed in Exhibit 21.

24 216. On information and belief, one or more of the Defendants have engaged
25 and continue to engage in such actions with specific intent to cause infringement or
26 with willful blindness to the resulting infringement because Defendants have had
27 actual knowledge of or should have had actual knowledge of the '805 patent and that
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1 their acts were inducing infringement of the '805 patent since at least receiving the
2 June 11, 2019 First Notice Letter; or, if not then, since at least the time of February
3 12, 2020, when Helios provided detailed claim charts of Defendants' infringement of
4 the '805 patent; or, if not then, since at least the time of April 21, 2021, when Helios
5 provided exemplary and redacted claim charts demonstrating Defendants'
6 infringement; or, if not then, since at least the time of July 29, 2021, when Helios
7 provided unredacted exemplary claim charts for the DASH Patents demonstrating
8 Defendants' infringement; or, if not then, since at least the time of the parties'
9 September 14, 2021 phone call, during which the parties discussed the exemplary
10 claim charts of the DASH Patents and discussed a royalty rate and licensing terms; or,
11 if not then, since at least the time of October 18, 2021, where Helios offered
12 Defendants a license for the DASH Patents under FRAND terms; or, if not then, since
13 at least the time of the WBD Merger; or, if not then, since at least the time of
14 receiving Plaintiff's Fifth Notice Letter on June 23, 2023; or, if not then, since at least
15 the time of receiving the Complaint in this matter and Exhibits 19-21 thereto in view
16 of (i) Defendants' extensive knowledge of and experience with MPEG-DASH, (ii)
17 Defendants' knowledge of how they were encouraging their partners, customers, and
18 users to stream their MPEG-DASH-enabled VOD via the Accused Instrumentalities,
19 and (iii) the parties' pre-suit communications regarding the Asserted Patents and
20 Defendants' websites, apps, and services, which communications detailed how
21 Defendants directly infringed and induced the direct infringement of the asserted
22 claims of the '805 patent.

23 217. In its First, Second, Third, Fourth, and Fifth Notice Letters, Helios
24 clearly identified the MPEG-DASH standard to which the Asserted Patents pertained,
25 identified the Asserted Patents, informed Defendants that the Asserted Patents were
26 essential to MPEG-DASH, provided proof that it knew Defendants were utilizing the
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1 MPEG-DASH standard in providing streaming VOD via its websites and apps, and
2 specified how the Accused Instrumentalities infringed Helios’s Asserted Patents.

3 218. Notwithstanding the above, Defendants continued to induce the
4 infringement of the ’805 patent despite having actual knowledge of or being willfully
5 blind to their infringement.

6 219. On information and belief, based on the facts set forth in in the foregoing
7 paragraphs, Defendants’ infringement has been and continues to be willful.

8 220. Plaintiff has been harmed by Defendants’ infringing activities.

9 **COUNT VI – INFRINGEMENT OF U.S. PATENT NO. 9,325,558**

10 221. The allegations set forth in the foregoing paragraphs 1 through 220 are
11 incorporated into this Sixth Claim for Relief.


12 222. On April 26, 2016, the ’558 Patent was duly and legally issued by the
13 United States Patent and Trademark Office under the title “Apparatus and Method for
14 Providing Streaming Contents.” A true and correct copy of the ’558 patent is attached
15 as Exhibit 22.

16 223. Helios is the assignee and owner of all right, title, and interest in and to
17 the ’558 patent, including the exclusive right to assert all causes of action arising
18 under the ’558 patent and the right to collect any remedies for infringement of it.

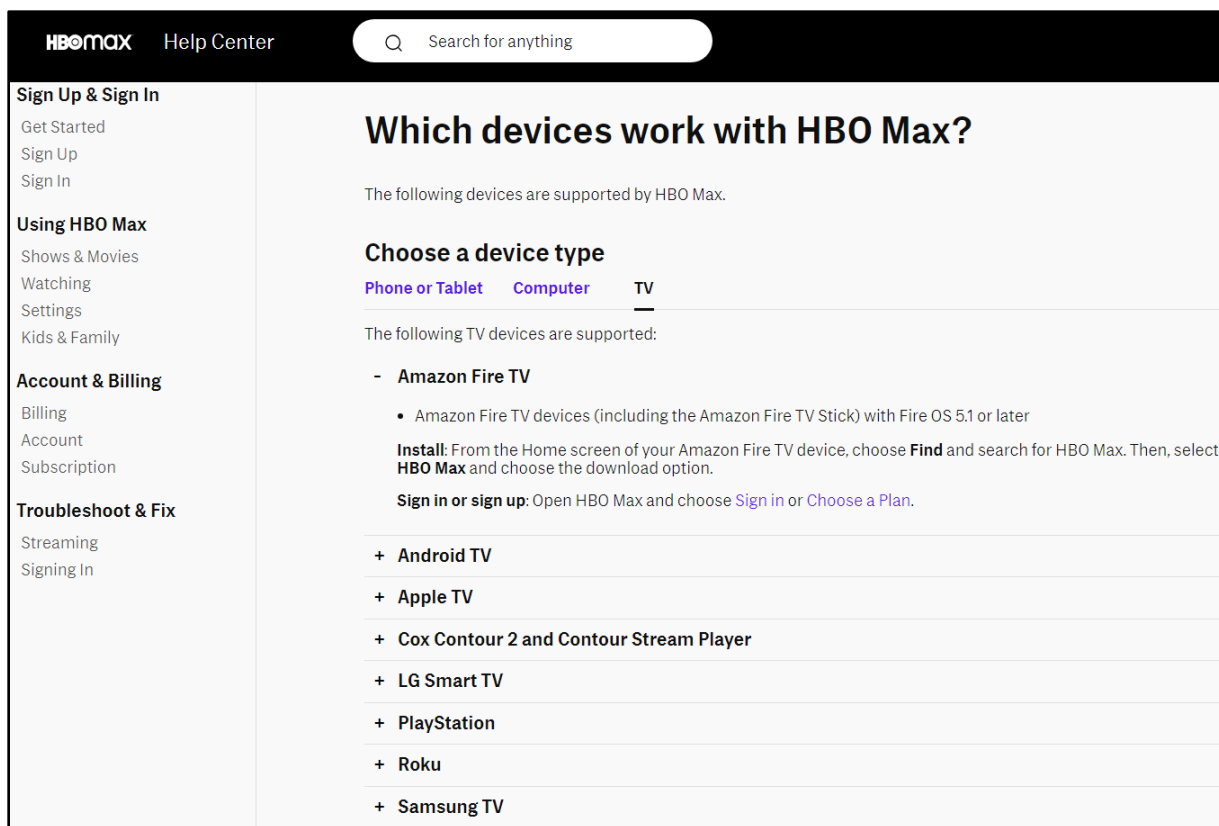
19 224. Upon information and belief, one or more Defendants have and continue
20 to actively induce the infringement of at least claims 1, 2, 3, 4, and 5 of the ’558
21 patent by selling, offering to sell, making, using, and/or providing and causing to be
22 used streaming media content (the “Accused Instrumentalities”), including one or
23 more videos on demand (“VOD”) and media content such as those available at
24 <https://play.hbonow.com/>, <https://play.hbomax.com/>, and <https://play.max.com/>, as
25 set forth in detail in the preliminary and exemplary claim chart attached as Exhibits
26 23-25.
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1 225. On information and belief, the Accused Instrumentalities have and
2 continue to be used, marketed, provided to, and/or used by or for each Defendants’
3 partners, clients, customers, and end users across the country and in this District.

4 226. Upon information and belief, one or more Defendants have induced and
5 continue to induce others to infringe at least claims 1, 2, 3, 4, and 5 of the ’558 patent
6 under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful
7 blindness, actively encouraging or aiding and abetting others to infringe, including but
8 not limited to Defendants’ partners, customers, and/or users whose use of the Accused
9 Instrumentalities constitutes direct infringement of at least claims 1, 2, 3, 4, and 5 of
10 the ’558 patent.

11 227. For example, Defendants actively induce and encourage their partners,
12 customers, and/or users to directly infringe claims 1, 2, 3, 4, and 5 of the ’558 patent
13 by at least: (1) coding infringing methods into their streaming media content, (2)
14 knowingly and strategically placing enticing play icons (e.g., ) and buttons (e.g.,
15 “Watch” or “Watch Now”) with their streaming media content, and (3) actively
16 encouraging their users to click the play icons and buttons, which necessarily triggers
17 the performance of these known infringing methods in client devices, as set forth in
18 the preliminary infringement analysis detailed in Exhibits 23-25.

19 228. As a further example, Defendants have and continue to actively and
20 knowingly encourage infringement of the ’558 patent by, in addition to continuing to
21 strategically place the enticing icons and buttons mentioned above, instructing users of
22 various streaming devices, such as phones or tablets, computers, and smart TVs,
23 including but not limited to Amazon FireTVs, Android TVs, Apple TVs, Cox Contour
24 2 and Contour Stream Players, LG Smart TVs, PlayStations, Rokus, Samsung TVs,
25 VIZIO Smart TVs, Xboxs, XClass TVs, Xfinity X1 and Flex TVs, PCs, Macs,
26 Chromebooks, Android phones or tablets, and iPhone, iPad, and iPod touch devices,
27 among others, to stream Defendant’s DASH-enabled VOD via the Accused
28 Instrumentalities:



(See <https://help.hbomax.com/do-en/Answer/Detail/000001243> (last accessed July 24, 2023).)

229. Claim 1 of the '558 patent recites a method by which a client provides media content including one or more periods, the method comprising: receiving metadata of the media content from a server, the metadata comprising a minBufferTime attribute indicating a minimum amount of initially buffered media content that is required to ensure playout of the media content, the minBufferTime attribute being defined in segment unit, wherein the metadata is a media presentation description (MPD) that provides descriptive information that enables a client to select one or more representations; receiving the media content from the server, and buffering the received media content by at least the minimum amount; and playing back the media content, wherein the minBufferTime attribute relates to the one or more periods, and wherein the minBufferTime attribute relates to providing a minimum amount of initially buffered media at a beginning of a media presentation, at

1 a beginning of the one or more periods of the media presentation, or at any random
2 access point of the media presentation.

3 230. Upon information and belief, one or more of the Defendants have and
4 continue to actively induce infringement of claim 1 of the '558 patent by actively
5 inducing their partners, customers, and/or users to perform the method of claim 1 of
6 the '558 patent with their client devices, as set forth above in paragraphs 226-228 and
7 in the preliminary infringement analyses set forth in Exhibits 23-25.

8 231. On information and belief, from June 11, 2019 through May 27, 2020,
9 one or more of the Defendants induced infringement of claim 1 of the '558 patent via
10 the HBO NOW Accused Streaming Service, as set forth in the preliminary
11 infringement analysis in Exhibit 23.

12 232. On information and belief, from May 27, 2020 through May 23, 2023,
13 one or more of the Defendants induced infringement of claim 1 of the '558 patent via
14 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
15 contention attached as Exhibit 24.

16 233. On information and belief, since May 23, 2023, one or more of the
17 Defendants have and continue to induce the direct infringement of claim 1 of the '558
18 patent via the Max Accused Streaming Service, as set forth in the preliminary
19 infringement contention attached as Exhibit 25.

20 234. Claim 2 of the '558 patent recites the method of claim 1, wherein the
21 metadata is the Media Presentation Description (MPD) of the media content.

22 235. Upon information and belief, one or more of the Defendants have and
23 continue to actively induce infringement of claim 2 of the '558 patent by actively
24 inducing their partners, customers, and/or users to perform the method of claim 1 of
25 the '558 patent with their client devices, wherein the metadata is an MPD of the
26 media, as set forth above in paragraphs 226-228 and in the preliminary infringement
27 analyses set forth in Exhibits 23-25.
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1 236. On information and belief, from June 11, 2019 through May 27, 2020,
2 one or more of the Defendants induced infringement of claim 2 of the '558 patent via
3 the HBO NOW Accused Streaming Service, as set forth in the preliminary
4 infringement analysis in Exhibit 23.

5 237. On information and belief, from May 27, 2020 through May 23, 2023,
6 one or more of the Defendants induced infringement of claim 2 of the '558 patent via
7 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
8 contention attached as Exhibit 24.

9 238. On information and belief, since May 23, 2023, one or more of the
10 Defendants have and continue to induce the direct infringement of claim 2 of the '558
11 patent via the Max Accused Streaming Service, as set forth in the preliminary
12 infringement contention attached as Exhibit 25.

13 239. Claim 3 of the '558 patent recites the method of claim 1, wherein the
14 minBufferTime attribute indicates the minimum amount of the initially buffered
15 media content that is required to ensure playout of the media content when the media
16 content is continuously delivered at or above a value of a bandwidth attribute of the
17 metadata.

18 240. Upon information and belief, one or more of the Defendants have and
19 continue to actively induce infringement of claim 3 of the '558 patent by actively
20 inducing their partners, customers, and/or users to perform the method of claim 1 of
21 the '558 patent with their client devices, wherein the MPD for the media content
22 includes a minBufferTime and bandwidth attribute, as set forth above in paragraphs
23 226-228 and in the preliminary infringement analyses set forth in Exhibits 23-25.

24 241. On information and belief, from June 11, 2019 through May 27, 2020,
25 one or more of the Defendants induced infringement of claim 3 of the '558 patent via
26 the HBO NOW Accused Streaming Service, as set forth in the preliminary
27 infringement analysis in Exhibit 23.
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1 242. On information and belief, from May 27, 2020 through May 23, 2023,
2 one or more of the Defendants induced infringement of claim 3 of the '558 patent via
3 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
4 contention attached as Exhibit 24.

5 243. On information and belief, since May 23, 2023, one or more of the
6 Defendants have and continue to induce the direct infringement of claim 3 of the '558
7 patent via the Max Accused Streaming Service, as set forth in the preliminary
8 infringement contention attached as Exhibit 25.

9 244. Claim 4 of the '558 patent recites the method of claim 1, wherein each of
10 the periods comprises one or more representations of the media content, each of the
11 representations being a structured collection of one or more media components within
12 a period, and wherein the bandwidth attribute is an attribute of each of the
13 representations, and describes a minimum bandwidth of a hypothetical constant bitrate
14 channel over which each of the representations are able to be continuously delivered
15 after the client buffers each of the representations for at least minBufferTime.

16 245. Upon information and belief, one or more of the Defendants have and
17 continue to actively induce infringement of claim 4 of the '558 patent by actively
18 inducing their partners, customers, and/or users to perform the method of claim 1 of
19 the '558 patent with their client devices, wherein each representation describes the
20 minimum bandwidth, as set forth above in paragraphs 226-228 and in the preliminary
21 infringement analyses set forth in Exhibits 23-25.

22 246. On information and belief, from June 11, 2019 through May 27, 2020,
23 one or more of the Defendants induced infringement of claim 4 of the '558 patent via
24 the HBO NOW Accused Streaming Service, as set forth in the preliminary
25 infringement analysis in Exhibit 23.

26 247. On information and belief, from May 27, 2020 through May 23, 2023,
27 one or more of the Defendants induced infringement of claim 4 of the '558 patent via
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1 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
2 contention attached as Exhibit 24.

3 248. On information and belief, since May 23, 2023, one or more of the
4 Defendants have and continue to induce the direct infringement of claim 4 of the '558
5 patent via the Max Accused Streaming Service, as set forth in the preliminary
6 infringement contention attached as Exhibit 25.

7 249. Claim 5 of the '558 patent recites the method of claim 4, wherein each of
8 the representations comprises one or more segments.

9 250. Upon information and belief, one or more of the Defendants have and
10 continue to actively induce infringement of claim 5 of the '558 patent by actively
11 inducing their partners, customers, and/or users to perform the method of claim 4 of
12 the '558 patent with their client devices, wherein the representation comprises one or
13 more segments, as set forth above in paragraphs 226-228 and in the preliminary
14 infringement analyses set forth in Exhibits 23-25.

15 251. On information and belief, from June 11, 2019 through May 27, 2020,
16 one or more of the Defendants induced infringement of claim 5 of the '558 patent via
17 the HBO NOW Accused Streaming Service, as set forth in the preliminary
18 infringement analysis in Exhibit 23.

19 252. On information and belief, from May 27, 2020 through May 23, 2023,
20 one or more of the Defendants induced infringement of claim 5 of the '558 patent via
21 the HBO Max Accused Streaming Service, as set forth in the preliminary infringement
22 contention attached as Exhibit 24.

23 253. On information and belief, since May 23, 2023, one or more of the
24 Defendants have and continue to induce the direct infringement of claim 5 of the '558
25 patent via the Max Accused Streaming Service, as set forth in the preliminary
26 infringement contention attached as Exhibit 25.
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1 254. On information and belief, one or more of the Defendants have engaged
2 and continue to engage in such actions with specific intent to cause infringement or
3 with willful blindness to the resulting infringement because Defendants have had
4 actual knowledge of or should have had actual knowledge of the '558 patent and that
5 their acts were inducing infringement of the '558 patent since at least receiving the
6 June 11, 2019 First Notice Letter; or, if not then, since at least the time of February
7 12, 2020, when Helios provided detailed claim charts of Defendants' infringement of
8 the '558 patent; or, if not then, since at least the time of April 21, 2021, when Helios
9 provided exemplary and redacted claim charts demonstrating Defendants'
10 infringement; or, if not then, since at least the time of July 29, 2021, when Helios
11 provided unredacted exemplary claim charts for the DASH Patents demonstrating
12 Defendants' infringement; or, if not then, since at least the time of the parties'
13 September 14, 2021 phone call, during which the parties discussed the exemplary
14 claim charts of the DASH Patents and discussed a royalty rate and licensing terms; or,
15 if not then, since at least the time of October 18, 2021, where Helios offered
16 Defendants a license for the DASH Patents under FRAND terms; or, if not then, since
17 at least the time of the WBD Merger; or, if not then, since at least the time of
18 receiving Plaintiff's Fifth Notice Letter on June 23, 2023; or, if not then, since at least
19 the time of receiving the Complaint in this matter and Exhibits 23-25 thereto in view
20 of (i) Defendants' extensive knowledge of and experience with MPEG-DASH, (ii)
21 Defendants' knowledge of how they were encouraging their partners, customers, and
22 users to stream their MPEG-DASH-enabled VOD via the Accused Instrumentalities,
23 and (iii) the parties' pre-suit communications regarding the Asserted Patents and
24 Defendants' websites, apps, and services, which communications detailed how
25 Defendants directly infringed and induced the direct infringement of the asserted
26 claims of the '558 patent.
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1 255. In its First, Second, Third, Fourth, and Fifth Notice Letters, Helios
2 clearly identified the MPEG-DASH standard to which the Asserted Patents pertained,
3 identified the Asserted Patents, informed Defendants that the Asserted Patents were
4 essential to MPEG-DASH, provided proof that it knew Defendants were utilizing the
5 MPEG-DASH standard in providing streaming VOD via its websites and apps, and
6 specified how the Accused Instrumentalities infringed Helios’s Asserted Patents.

7 256. Notwithstanding the above, Defendants continued to induce the
8 infringement of the ’558 patent despite having actual knowledge of or being willfully
9 blind to their infringement.

10 257. On information and belief, based on the facts set forth in in the foregoing
11 paragraphs, Defendants’ infringement has been and continues to be willful.

12 258. Plaintiff has been harmed by Defendants’ infringing activities.

13 **COUNT VII – INFRINGEMENT OF U.S. PATENT NO. 8,549,164**

14 259. The allegations set forth in the foregoing paragraphs 1 through 259 are
15 incorporated into this Seventh Claim for Relief.

16 260. On October 1, 2013, the ’164 Patent was duly and legally issued by the
17 United States Patent and Trademark Office under the title “Media Transmission
18 System and Method.” A true and correct copy of the ’164 patent is attached as
19 Exhibit 26.

20 261. Helios is the assignee and owner of all right, title, and interest in and to
21 the ’164 patent, including the exclusive right to assert all causes of action arising
22 under the ’164 patent and the right to collect remedies for infringement of it.

23 262. Upon information and belief, Defendant has and continues to directly
24 infringe at least claims 12, 13, 14, and 15 of the ’164 patent by selling, offering to sell,
25 making, using, and/or providing and causing to be used streaming media content (the
26 “Accused Instrumentalities”), including one or more videos on demand (“VOD”) and
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1 media content such as those available at <https://play.max.com/>, as set forth in detail in
2 the preliminary and exemplary claim chart attached as Exhibit 27.

3 263. On information and belief, the Accused Instrumentalities have and
4 continue to be used, marketed, provided to, and/or used by or for each Defendants'
5 partners, clients, customers, and end users across the country and in this District.

6 264. Claim 12 of the '164 patent recites a media streaming method of a media
7 server for storing a piece of media content in a form of a plurality of video streams,
8 the media streaming method comprising the steps of: (a) streaming the media content
9 to a user terminal; (b) receiving play position information about a position where play
10 is requested from the user terminal; (c) determining a video stream corresponding to
11 the play position information, from among the plurality of video streams; and (d)
12 streaming video streams to the user terminal, starting with the video stream
13 corresponding to the play position information; wherein if the play position
14 information is a time t and the time t is included in an N th video stream, the step (c)
15 comprises searching the N th video stream for an I frame (or an IDR frame) nearest to
16 the time t and, if the retrieved I frame (or the IDR frame) is a P th frame, determining
17 the P th frame of the N th video stream as the video stream corresponding to the play
18 position information, and the step (d) comprises transmitting frames of one GOP to
19 the user terminal starting with the P th frame of the N th video stream, and after the step
20 (d) of transmitting the N th video stream, the step (c) is performed again in order to
21 search an $(N+1)$ th video stream for a next I frame (or an IDR frame) nearest to the
22 time t and, if the next I frame (or the IDR frame) is a q th frame, to determine the q th
23 frame of the $(N+1)$ th video stream as the video stream corresponding to the play
24 position information, and the step (d) comprises transmitting frames of one GOP to
25 the user terminal starting with the q th frame of the $(N+1)$ th video stream.

26 265. On information and belief, since May 23, 2023, the Max Accused
27 Streaming Service has and continues to perform the method of claim 12 of a media
28 streaming method of a media server for storing a piece of media content in a form of a

1 plurality of video streams for the '164 patent, and therefore has and continues to
2 infringe claim 12 of the '164 patent, for at least the reasons set forth in the preliminary
3 infringement analysis detailed in Exhibit 27.

4 266. Claim 13 recites the media streaming method according to claim 12,
5 wherein the step (b) comprises receiving a random access point, indicating a time
6 corresponding to the play position information, from the user terminal.

7 267. On information and belief, since May 23, 2023, the Max Accused
8 Streaming Service has and continues to perform the method of claim 12 of the '164
9 patent wherein the media representations start at SAPs, or random access points, and
10 therefore has and continues to infringe claim 13 of the '164 patent, for at least the
11 reasons set forth in the preliminary infringement analysis detailed in Exhibit 27.

12 268. Claim 14 recites the media streaming method according to claim 13,
13 wherein if the play position information is a time t in the step (b), the step (c)
14 comprises searching for a video stream having an I frame (or an IDR frame) nearest to
15 the time t and, if the I frame (or the IDR frame) is a P^{th} frame of the retrieved video
16 stream, determining the P^{th} frame of the video stream as the video stream
17 corresponding to the play position information.

18 269. On information and belief, since May 23, 2023, the Max Accused
19 Streaming Service has and continues to perform the method of claim 13 of the '164
20 patent wherein if the play position information is a time t in the step (b), the step (c)
21 comprises searching for a video stream having an I frame (or an IDR frame) nearest to
22 the time t and, if the I frame (or the IDR frame) is a P^{th} frame of the retrieved video
23 stream, determining the P^{th} frame of the video stream as the video stream
24 corresponding to the play position information, for at least the reasons set forth in the
25 preliminary infringement analysis detailed in Exhibit 27. Therefore, the Max Accused
26 Streaming Service has and continues to infringe claim 14 of the '164 patent.

27 270. Claim 15 of the '164 patent recites the media streaming method
28 according to claim 12, wherein after the step (d) of transmitting the $(N+1)^{\text{th}}$ video

1 stream, the step (c) is performed again in order to search an (N+2)th video stream for
2 a next I frame (or an IDR frame) nearest to the time t and, if the next I frame (or the
3 IDR frame) is an rth frame, to determine the rth frame of the (N+2)th video stream as
4 the video stream corresponding to the play position information, and the step (d)
5 comprises transmitting frames of one GOP to the user terminal starting with the rth
6 frame of the (N+2)th video stream.

7 271. On information and belief, since May 23, 2023, the Max Accused
8 Streaming Service has and continues to perform the method of claim 12 of the '164
9 patent, wherein after the step (d) of transmitting the (N+1)th video stream, the step (c)
10 is performed again in order to search an (N+2)th video stream for a next I frame (or an
11 IDR frame) nearest to the time t and, if the next I frame (or the IDR frame) is an rth
12 frame, to determine the rth frame of the (N+2)th video stream as the video stream
13 corresponding to the play position information, and the step (d) comprises
14 transmitting frames of one GOP to the user terminal starting with the rth frame of the
15 (N+2)th video stream, for at least the reasons set forth in the preliminary infringement
16 analysis detailed in Exhibit 27. Therefore, the Max Accused Streaming Service has
17 and continues to infringe claim 15 of the '164 patent.

18 272. On information and belief, the Accused Instrumentalities have been used
19 to infringe and continue to directly infringe at least claims 12, 13, 14, and 15 of the
20 '164 patent during the pendency of the '164 patent.

21 273. Defendants continued to infringe the '164 patent despite having actual
22 knowledge of or being willfully blind to their infringement.

23 274. Plaintiff has been harmed by Defendant's infringing activities.

24 **STATEMENT REGARDING FRAND OBLIGATION**

25 275. Plaintiff contends that, pursuant to relevant ISO and IEC guidelines,
26 bylaws, and policies, many of the claims of the Asserted Patents are subject to Fair,
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1 Reasonable, and Non-Discriminatory (“FRAND”) licensing obligations to willing
2 licensees.

3 276. Defendants have refused for many years to willingly take a license under
4 such claims of the Asserted Patents under FRAND terms. As such, Plaintiff reserves
5 the right to treat Defendants as unwilling licensees, such that Plaintiff would not be
6 bound by any FRAND licensing obligation for purposes of this action or any license
7 to Defendants. Accordingly, Plaintiff seeks the maximum available reasonable
8 royalty damages to compensate for Defendants’ infringing activities.

9 **PRAYER FOR RELIEF**

10 A. WHEREFORE, Plaintiff demands judgment for itself and against
11 Defendants as follows:

12 B. An adjudication that Defendants have infringed each of the Asserted
13 Patents;

14 C. An award of damages to be paid by Defendants adequate to compensate
15 Plaintiff for Defendants’ past infringement of each of the Asserted Patents, and any
16 continuing or future infringement through the date such judgment is entered, including
17 interest, costs, expenses and an accounting of all infringing acts including, but not
18 limited to, those acts not presented at trial;

19 D. A declaration that this case is exceptional under 35 U.S.C. § 285, and an
20 award of Plaintiff’s reasonable attorneys’ fees; and

21 E. An award to Plaintiff of such further relief at law or in equity as the
22 Court deems just and proper.

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JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

Dated: August 23, 2023

THE INTERNET LAW GROUP

/s/ David Newman

David Newman

Attorney for Plaintiff Helios Streaming, LLC

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