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17 Attorneys for Plaintiff
18 ROVI GUIDES, INC.

19 **UNITED STATES DISTRICT COURT**
20 **CENTRAL DISTRICT OF CALIFORNIA**

20	ROVI GUIDES, INC.,)	Case No.
)	
21	Plaintiff,)	
	v.)	Judge:
22	COMCAST CORPORATION; COMCAST)	
23	CABLE COMMUNICATIONS, LLC;)	COMPLAINT FOR PATENT
24	COMCAST CABLE COMMUNICATIONS)	INFRINGEMENT
25	MANAGEMENT, LLC; COMCAST)	
26	BUSINESS COMMUNICATIONS, LLC;)	DEMAND FOR JURY TRIAL
27	COMCAST HOLDINGS CORPORATION;)	
28	COMCAST SHARED SERVICES, LLC;)	
	COMCAST OF SANTA MARIA, LLC; and)	
	COMCAST OF LOMPOC, LLC,)	
	Defendants.)	

1 Plaintiff Rovi Guides, Inc. hereby brings this Complaint for patent infringement
2 against Comcast Corporation; Comcast Cable Communications, LLC; Comcast Cable
3 Communications Management, LLC; Comcast Business Communications, LLC;
4 Comcast Holdings Corporation; Comcast Shared Services, LLC; Comcast of Santa
5 Maria, LLC; Comcast of Lompoc, LLC (all Comcast entities, collectively, Comcast or
6 Defendants) for infringement of U.S. Patent Nos. 7,827,585 (the '585 Patent);
7 9,294,799 (the '799 Patent); 9,369,741 (the '741 Patent); 9,578,363 (the '363 Patent);
8 9,621,956 (the '956 Patent); and 9,668,014 (the '014 Patent) (collectively, Asserted
9 Patents). Plaintiff, on personal knowledge as to its own acts, and upon information
10 and belief as to all others based on investigation, alleges as follows:

11
12 **SUMMARY OF THE ACTION**

13 1. For over a decade, Comcast has built its interactive cable business on the
14 back of Rovi's technology. Like every other major Pay-TV provider in the United
15 States, Comcast licensed Rovi's technology for a fixed term. But unlike every one of
16 its competitors, Comcast has refused to renew its license on acceptable terms.
17 Although Comcast's license has expired, it continues to make, use, lease, offer to
18 lease, and distribute products that not only practice Rovi's patented innovations, but
19 also compete with Rovi's own Interactive Program Guide (IPG) products. This action
20 seeks to end Comcast's unauthorized, infringing and competitive conduct.

21 2. Thirteen years ago, when Rovi's patent portfolio was less than half the
22 size it is today and when it did not yet include many of the innovations that consumers
23 have come to demand, such as Video-on-Demand, whole-home DVR technology, and
24 robust mobile access to and control of in-home set-top boxes, Comcast paid Rovi over
25 \$250 million for a fixed-term license to Rovi's patent portfolio (License). The License
26 also included important, non-monetary terms.

1 3. Under the License, Comcast could use Rovi's patents in connection with
2 Comcast's and its affiliates' Pay-TV systems. But the License expired on March 31,
3 2016, and since then, Comcast has not only failed to remove its infringing products
4 and services from the market, it continues to provide those infringing products and
5 services to millions of its subscribers.

6 4. As part of the parties' negotiations in an attempt to renew Comcast's
7 License, Rovi provided Comcast notice of the Asserted Patents. Rovi also explained
8 that without renewing its License, Comcast would no longer have permission to make
9 use of Rovi's patented innovations. Instead of taking a license, Comcast has decided
10 to willfully infringe the Asserted Patents.

11 5. After the License expired, Rovi brought suit against Comcast in district
12 court and in an enforcement action at the International Trade Commission (ITC) for
13 patent infringement, asserting a small number of patents in its portfolio. In November,
14 the ITC issued orders in favor of Rovi barring Comcast from importing and
15 distributing Comcast's infringing set-top boxes (STBs) in the United States. *See*
16 *generally In re Certain Digital Video Receivers & Hardware & Software Components*
17 *Thereof*, Inv. No. 337-TA-1001, Comm'n Op. (Dec. 6, 2016) (Final Public Version).¹
18 And in response, Comcast has now disabled valuable features that infringed the
19 patents asserted in that ITC action, drawing complaints from Comcast's subscribers
20 on public forums.

21 6. And yet still, notwithstanding the ITC's orders, Comcast continues to
22 refuse to renew its license to Rovi's technology. Comcast's decision to continue to
23 willfully infringe stands in stark contrast to its prior recognition of the need for a
24 license from Rovi.

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26
27 ¹ The district court cases are stayed in the Southern District of New York (Case
28 Nos. 1:16-cv-09278 and 1:16-cv-09826).

1 7. Indeed, Comcast is the lone holdout. Virtually the entire Pay-TV industry
2 is licensed to Rovi's portfolio of IPG patents. And in 2015 and 2016, every major
3 Pay-TV provider in the United States—*except Comcast*—renewed its license, including
4 AT&T, Verizon, Charter / Spectrum, and DISH. So, while every one of its
5 competitors pays a fair price for Rovi's innovative technology, Comcast alone
6 attempts to use it for free. Rovi is forced, then, to bring this additional infringement
7 suit asserting additional patents in order to enforce its patent rights.

8
9 **THE PARTIES**

10 **I. ROVI: A PIONEER IN MEDIA TECHNOLOGY**

11 8. Plaintiff Rovi Guides, Inc. is a Delaware corporation, with a principal
12 place of business at 2160 Gold Street, San Jose, California, 95002. Rovi Guides is a
13 wholly-owned subsidiary of Rovi Corporation and is the owner of the Asserted
14 Patents.

15 9. Rovi is a global leader in digital entertainment technology solutions.
16 Rovi's market-leading digital entertainment solutions enable the proliferation of
17 access to media on electronic devices; these solutions include products and services
18 related to IPGs and other content discovery solutions, personalized search and
19 recommendation, advertising and programming promotion optimization, and other
20 data and analytics solutions to monetize interactions across multiple entertainment
21 platforms. Rovi's solutions are used by companies worldwide in applications such as
22 cable, satellite, and internet protocol television (IPTV) receivers, including digital
23 television set-top boxes (STBs) and DVRs; PCs, mobile, and tablet devices; and other
24 means by which consumers connect to entertainment.

25 10. Rovi is, and has been, a pioneer and recognized leader in media
26 technology, including the technology used to facilitate consumer access to and
27 discovery of television and other audiovisual media. Since introducing one of the first
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1 on-screen electronic program guides in 1981, Rovi has continued to innovate to
2 develop products, services, and other solutions to connect consumers with
3 entertainment.

4 11. Thanks largely to those innovations, Rovi has amassed a portfolio of over
5 1,200 issued U.S. patents, including the Asserted Patents, and 500 pending U.S. patent
6 applications, more than 250 of which were filed after Comcast's license expired. Rovi
7 has added to its patent portfolio through strategic acquisitions of groundbreaking
8 companies, such as Veveo, and of patent portfolios from world-class innovators, such
9 as Microsoft. Rovi's patented inventions are used daily by consumers of media
10 content, and are "must-haves" for television, other media service providers, and the
11 consumer electronics industry that supports them.

12 12. In recognition of the importance and value of Rovi's patented
13 technologies and Rovi's role as an innovator, every major U.S. Pay-TV provider,
14 including Comcast in the past, has taken a license to a portfolio of Rovi's patents.

15
16 **II. DEFENDANTS**

17 13. Upon information and belief, Comcast Corporation is a Pennsylvania
18 corporation, with a principal place of business at One Comcast Center, 1701 John F.
19 Kennedy Blvd., Philadelphia, Pennsylvania, 19103. Through its wholly-owned
20 subsidiaries, Comcast Corporation provides "Comcast" branded services, including
21 Xfinity digital video, audio, and other content services to customers. Subscribers to
22 Comcast's Xfinity television services receive a receiver, such as a set-top box. Upon
23 information and belief, Comcast Corporation develops the infringing Xfinity services
24 and equipment and provides the infringing receivers to customers.

25 14. Upon information and belief, Comcast Cable Communications, LLC is a
26 Delaware limited liability company, with a principal place of business at One Comcast
27 Center, 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania, 19103. Upon
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1 information and belief, Comcast Cable Communications, LLC is a subsidiary of
2 Comcast Corporation. Upon information and belief, Comcast Cable Communications,
3 LLC, jointly with the other Defendants, develops the infringing Xfinity services and
4 equipment and provides infringing receivers to customers.

5 15. Upon information and belief, Comcast Cable Communications
6 Management, LLC is a Delaware limited liability company, with a principal place of
7 business at One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia,
8 Pennsylvania, 19103. Upon information and belief, Comcast Cable Communications
9 Management, LLC is a subsidiary of Comcast Corporation. Upon information and
10 belief, Comcast Cable Communications Management, LLC, jointly with the other
11 Defendants, develops the infringing Xfinity services and equipment and provides
12 infringing receivers to customers.

13 16. Upon information and belief, Comcast Business Communications, LLC
14 is a Pennsylvania limited liability company, with a principal place of business at One
15 Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania, 19103.
16 Upon information and belief, Comcast Business Communications, LLC is a subsidiary
17 of Comcast Corporation. Upon information and belief, Comcast Business
18 Communications, LLC, jointly with the other Defendants, develops the infringing
19 Xfinity services and equipment and provides infringing receivers to customers.

20 17. Upon information and belief, Comcast Holdings Corporation is a
21 Pennsylvania corporation, with a principal place of business at One Comcast Center,
22 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania, 19103. Upon information
23 and belief, Comcast Holdings Corporation is a subsidiary of Comcast Corporation.
24 Upon information and belief, Comcast Holdings Corporation, jointly with the other
25 Defendants, develops the infringing Xfinity services and equipment and provides
26 infringing receivers to customers.

1 the United States of infringing receivers, including STBs (and their peripheral devices,
2 such as remote control units), having hardware and software components, including,
3 in particular, IPG software, alone or in conjunction with Comcast servers and/or
4 mobile applications (the Accused Products) that are used in and with Comcast's
5 Xfinity video services.

6 23. This action also involves Comcast's attempts and offers to license, or
7 otherwise provide to other service providers, products which are not licensed to the
8 Asserted Patents, including Comcast's X1 IPG Product (an Accused Product), which
9 is designed to practice one or more claims of the Asserted Patents, and which
10 competes with Rovi's own IPG products.

11 24. The Accused Products include Comcast digital video receivers and
12 related hardware and software, including at least the associated IPG software. Such
13 Accused Products include at least the Comcast Xfinity receivers with the following
14 model numbers: ARRIS XG1v1 MX011ANM, ARRIS XG1v3 AX013ANM, ARRIS
15 XG1v1 MX011ANC, ARRIS XG1v3 AX013ANC, ARRIS XG1v4-A AX014ANM,
16 ARRIS XG1v4-A AX014ANC, Pace RNG150 PCRNG150BNMD, Pace RNG150
17 PCRNG150BNCD, Pace RNG150 PR150BNM, Pace RNG150 PR150BNC, Pace
18 XG1v1 PCX001ANMD, Pace XG1v1 PCX001ANCD, Pace XG1v3 PX013ANM,
19 Pace XG1v3 PX013ANC, Pace XG2v2-P PX022ANC, Pace XG2v2-P PX022ANM,
20 Pace XiD-P PXD01ANI, Pace Xi3v2 PX032ANI, Pace Xi5-P PX051AEI, Cisco
21 RNG150N, Cisco XiD-C CXD01ANI, Humax Xi3-H HX003AN, Samsung
22 RNG150N SR150BNM, Samsung RNG150N SR150BNC, Samsung XG2v2-S
23 SX022ANC, and Samsung XG2v2-S SX022ANM. Accused Products also include
24 Comcast's X1 remote and streaming TV apps.²

25 _____
26 ² See *Set up the XFINITY TV Remote App*, XFINITY, <https://www.xfinity.com/support/xfinity-apps/setting-up-the-cable-tv-app/> (last visited
27 Dec. 28, 2017); *Xfinity Stream App*, XFINITY, <https://www.xfinity.com/get-stream>
28 (last visited Dec. 28, 2017).

1 25. Upon information and belief, Comcast operates at least two Xfinity stores
2 physically located in the Central District of California. Upon information and belief,
3 Comcast conducts its regular, established business at these locations. These Xfinity
4 stores provide infringing products to customers in this District. Comcast lists these
5 Xfinity stores on its website and holds them out as places where customers can obtain
6 infringing products.³ Upon information and belief, Comcast owns and/or leases the
7 premises where these Xfinity stores are located. Upon information and belief, these
8 Xfinity stores are staffed by persons directly employed by Comcast, many of whom
9 live in this District.

10 26. This Court has general and/or specific personal jurisdiction over Comcast
11 Corporation, and venue is proper, in part because Comcast Corporation, directly
12 and/or in combination with its subsidiaries and/or through its agents, does continuous
13 and systematic business in this district, including by providing infringing products and
14 services to residents of the Central District of California, by providing infringing
15 products and services that it knew would be used within this district, and/or by
16 participating in the solicitation of business from residents of this district.

17 27. In addition, upon information and belief, Comcast Corporation, directly
18 or through its subsidiaries, places infringing products in the stream of commerce,
19 which is directed at this district, with the knowledge and/or understanding that such
20 products will be sold, leased, or otherwise provided to customers within this district.
21 In addition, upon information and belief, Comcast Corporation, directly or through its
22 subsidiaries, employs individuals within the Central District of California, including
23 employees who provide infringing products and services to customers here, and
24 maintains offices and facilities here. Comcast Corporation, directly or through its
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26 ³ See, e.g., *685 East Betteravia Rd*, COMCAST,
27 <https://www.xfinity.com/local/ca/santa-maria/685-east-betteravia-rd.html> (last visited
28 Dec. 28, 2017).

1 subsidiaries, operates highly commercial websites through which regular sales and/or
2 leases of products and/or sales of services are made to customers in this district,
3 including products and services that, upon information and belief, infringe the
4 Asserted Patents.

5 28. This Court has general and/or specific personal jurisdiction over Comcast
6 Cable Communications, LLC, and venue is proper, in part because Comcast Cable
7 Communications, LLC, directly and/or in combination with other Comcast entities
8 and/or through its agents, does continuous and systematic business in this district
9 including by providing infringing products and services to residents of the Central
10 District of California, by providing infringing products and services that it knew
11 would be used within this district, and/or by participating in the solicitation of
12 business from residents of this district. In addition, upon information and belief,
13 Comcast Cable Communications, LLC, directly or through its subsidiaries, places
14 infringing products in the stream of commerce, which is directed at this district, with
15 the knowledge and/or understanding that such products will be sold, leased, or
16 otherwise provided to customers within this district. In addition, upon information and
17 belief, Comcast Cable Communications, LLC, directly or through its subsidiaries,
18 employs individuals within the Central District of California, including employees
19 who provide infringing products and services to customers here, and maintains offices
20 and facilities here. Comcast Cable Communications, LLC, directly or through its
21 subsidiaries, operates highly commercial websites through which regular sales and/or
22 leases of products and/or sales of services are made to customers in this district,
23 including products and services that, upon information and belief, infringe the
24 Asserted Patents.

25 29. This Court has general and/or specific personal jurisdiction over Comcast
26 Cable Communications Management, LLC, and venue is proper, in part because
27 Comcast Cable Communications Management, LLC, directly and/or in combination
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1 with other Comcast entities and/or through its agents, does continuous and systematic
2 business in this district including by providing infringing products and services to
3 residents of the Central District of California, by providing infringing products and
4 services that it knew would be used in this district, and/or by participating in the
5 solicitation of business from residents of this district. In addition, upon information
6 and belief, Comcast Cable Communications Management, LLC, directly or through its
7 subsidiaries, places infringing products in the stream of commerce, which is directed
8 at this district, with the knowledge and/or understanding that such products will be
9 sold, leased, or otherwise provided to customers within this district. In addition, upon
10 information and belief, Comcast Cable Communications Management, LLC, directly
11 or through its subsidiaries, employs individuals within the Central District of
12 California, including employees who provide infringing products and services to
13 customers here, and maintains offices and facilities here. Comcast Cable
14 Communications Management, LLC, directly or through its subsidiaries, operates
15 highly commercial websites through which regular sales and/or leases of products
16 and/or sales of services are made to customers in this district, including products and
17 services that, upon information and belief, infringe the Asserted Patents.

18 30. This Court has general and/or specific personal jurisdiction over Comcast
19 of Santa Maria, LLC and venue is proper, in part, because Comcast of Santa Maria,
20 LLC, directly and/or in combination with other Comcast entities and/or through its
21 agents, does continuous and systematic business in this district including by providing
22 infringing products and services to residents of the Central District of California, by
23 providing infringing products and services that it knew would be used within this
24 district, and/or by participating in the solicitation of business from residents of this
25 district. In addition, upon information and belief, Comcast of Santa Maria, LLC,
26 directly or through its subsidiaries, places infringing products within the stream of
27 commerce, which is directed at this district, with the knowledge and/or understanding

1 that such products will be sold, leased, or otherwise provided to customers within this
2 district. In addition, upon information and belief, Comcast of Santa Maria, LLC,
3 directly or through its subsidiaries, has a regular and established business within the
4 Central District of California, at least at the Comcast store and service center at 685
5 East Betteravia Rd., Santa Maria, CA 93454. In addition, upon information and belief,
6 Comcast of Santa Maria, LLC, directly or through its subsidiaries, employs
7 individuals within the Central District of California, including employees who provide
8 infringing products and services to customers here, and maintains offices and facilities
9 here. Comcast of Santa Maria, LLC, directly or through its subsidiaries, operates
10 highly commercial websites through which regular sales and/or leases of products
11 and/or sales of services are made to customers in this district, including products and
12 services that, upon information and belief, infringe the Asserted Patents.

13 31. This Court has general and/or specific personal jurisdiction over Comcast
14 of Lompoc, LLC, and venue is proper, in part because Comcast of Lompoc, LLC,
15 directly and/or in combination with other Comcast entities and/or through its agents,
16 does continuous and systematic business in this district including by providing
17 infringing products and services to residents of the Central District of California, by
18 providing infringing products and services that it knew would be used in this district,
19 and/or by participating in the solicitation of business from residents of this district. In
20 addition, upon information and belief, Comcast of Lompoc, LLC, directly or through
21 its subsidiaries, places infringing products in the stream of commerce, which is
22 directed at this district, with the knowledge and/or understanding that such products
23 will be sold, leased, or otherwise provided to customers in this district. In addition,
24 upon information and belief, Comcast of Lompoc, LLC, directly or through its
25 subsidiaries, has a regular and established business within the Central District of
26 California, at least at the Comcast store and service center at 1145 North H Street,
27 Suite B, Lompoc, CA 93436. In addition, upon information and belief, Comcast of
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1 Lompoc, LLC, directly or through its subsidiaries, employs individuals in the Central
2 District of California, including employees who provide infringing products and
3 services to customers here, and maintains offices and facilities here. Comcast of
4 Lompoc, LLC, directly or through its subsidiaries, operates highly commercial
5 websites through which regular sales and/or leases of products and/or sales of services
6 are made to customers in this district, including products and services that, upon
7 information and belief, infringe the Asserted Patents.

8 32. This Court has general and/or specific personal jurisdiction over the
9 remaining Defendants, and venue is proper, in part because said Defendants, directly
10 and/or in combination with Comcast Corporation and/or other Comcast Corporation
11 subsidiaries, and/or through their agents, do continuous and systematic business in this
12 district including by providing infringing products and services to residents of the
13 Central District of California, by providing infringing products and services that it
14 knew would be used within this district, and/or by participating in the solicitation of
15 business from residents of this district.

16 33. Venue is further proper in this Court because the Plaintiff maintains its
17 business in this District. One of Rovi's largest offices is situated at 2233 N. Ontario
18 St., Burbank, CA 91504 and employs approximately 85 employees, including key
19 witnesses who will testify in this action.

20 34. Upon information and belief, venue is proper in the Central District of
21 California because at least four of the non-employee inventors reside in this district.

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FACTUAL BACKGROUND

I. ROVI'S HISTORY OF INNOVATION AND COMMERCIAL SUCCESS

35. Since the launch of TV Guide Magazine in 1953, the Rovi family of companies (which includes, through mergers, joint ventures, and acquisitions, United Video, TV Guide Onscreen, StarSight Telecast, Prevue, TV Guide, Video Guide, Gemstar, Aptiv Digital, Macrovision, Veveo, and FanTV) has been a pioneer and recognized leader in media technology, including the technology used to facilitate consumer access to television and other audiovisual media. Today, Rovi's market-leading digital entertainment solutions enable the proliferation of access to media on electronic devices; these solutions include products and services related to IPGs and other content discovery solutions, personalized search and recommendation, advertising and programming promotion optimization, and other data and analytics solutions to monetize interactions across multiple entertainment platforms. Rovi's solutions are used by companies worldwide in applications such as cable, satellite, and internet protocol television (IPTV) receivers (including digital television STBs and digital video recorders (DVRs)); PCs, mobile, and tablet devices; and other means by which consumers connect to entertainment.

36. In particular, Rovi has developed the substantial majority of the pioneering advances in IPG technology and related functionality for subscription-based television broadcasting.

37. In 1981, a Rovi family of companies introduced one of the first, if not the first, on-screen electronic program guide (EPG). This EPG, displayed on a dedicated cable channel, allowed Pay-TV providers to provide scrolling on-screen television listings to their customers throughout the day. Rovi's early EPG product was widely adopted by North American cable systems, and became the way in which consumers discovered the content they desired.

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1 based, full-time employees supporting the development of new products and
2 platforms.

3 42. Rovi has incorporated its technological innovations resulting from its
4 significant research and development into its commercial products. For example,
5 Rovi's i-Guide® and Passport® Guide are IPGs that provide comprehensive listings,
6 intuitive search capabilities, advanced DVR and Video-on-Demand functionality, and
7 HD support. Rovi's Advanced Search and Recommendation (ASR) software is a
8 product that provides an advanced television experience through comprehensive
9 listings and intuitive search capabilities for expansive content offerings and state-of-
10 the-art DVR and VOD functionality. In addition, Rovi is investing heavily in next-
11 generation IPTV solutions.

12 43. The value of Rovi's innovative solutions has been recognized by
13 numerous leading Pay-TV service providers, who license these technologies and
14 solutions from Rovi. As of December 31, 2015, Rovi's technology was used by over
15 184 million subscribers worldwide.

16 44. In addition, Rovi's innovative IPG related technologies have been
17 recognized through numerous industry awards and accolades. For example, in 2012
18 Rovi was awarded a Technology and Engineering Emmy® Award for its "Pioneering
19 On-Screen Interactive Program Guides" that assist "viewer[s] in rapidly locating their
20 desired program." These Emmy® awards are designed to recognize "developments . .
21 . involved in engineering technologies which either represent so extensive an
22 improvement on existing methods or are so innovative in nature that they materially
23 have affected the transmission, recording, or reception of television."⁴

24 45. Rovi's history of innovation is also reflected in the extensive patent
25 coverage that Rovi has obtained for its inventions. This portfolio, which includes
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27 ⁴ *Technology & Engineering*, THE NATIONAL ACADEMY OF TELEVISION ARTS &
28 SCIENCES, <http://emmyonline.com/tech> (last visited Dec. 28, 2017).

1 more than 4,500 issued or pending patents worldwide, is a direct result of Rovi's
2 substantial and ongoing investment in research and development. The Asserted
3 Patents are reflective of this history of innovation, embodying a number of firsts in the
4 development of IPG-related technologies.

5 46. Rovi's current commercial products, including in particular its i-Guide®,
6 Passport® Guide, and TotalGuide xD IPG solutions, as well as ASR, embody Rovi's
7 patented technology, including certain of the Asserted Patents.

8 47. The strength of Rovi's patent portfolio has been recognized by the
9 entertainment industry. Every major U.S. Pay-TV provider, including AT&T (which
10 recently acquired DirecTV), Verizon, Charter/Spectrum, and Dish/EchoStar, among
11 others, has acknowledged the value of Rovi's innovations by taking licenses from
12 Rovi for its patents covering these innovations—and renewing those licenses in the
13 last two years. Comcast itself once licensed Rovi's portfolio for over \$250 million for
14 a fixed term. Rovi has also licensed its patent portfolio to many leading content
15 providers, including both traditional media (cable, satellite, IPTV) and new media
16 (online, mobile) video providers, as well as manufacturers and distributors of
17 receivers and other consumer electronic devices. Yet, despite this widespread
18 recognition of the value and importance of Rovi's patent portfolio, Comcast decided
19 to free ride, refusing to renew its license and compensate Rovi.

20 48. Rovi's long-term financial success depends in part on its ability to
21 establish, maintain, and protect its proprietary technology through patents. Comcast's
22 infringement presents significant and ongoing harm to Rovi's business.

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1 **II. COMCAST HAS LONG BENEFITED FROM ITS USE OF ROVI'S**
2 **PATENTED TECHNOLOGIES**

3 49. Prior to Comcast first licensing Rovi's patents, it measured business
4 success with reference to how many subscribers it had. Comcast did not historically
5 measure its business success by the quality of the services it provided to its customers.
6 Comcast touted itself in its 2002 10K as being the "largest cable operator in the
7 United States."

8 50. Nonetheless, beginning in or around 2004, Comcast began attributing
9 revenue growth to its "advanced services" including Video-on-Demand (VOD) and
10 digital-video-recording (DVR). Comcast recognized that its future business success
11 depended on product differentiation from both other cable operators and satellite
12 providers—product differentiation provided by offering advanced services to its
13 customers.

14 51. In 2004, to secure the growth in its "advanced services," Comcast entered
15 into a license agreement with Gemstar (a forerunner to Rovi) (2004 Agreement) which
16 Comcast described in SEC filings as an effort "to acquire and develop technology that
17 will drive product differentiation and new applications and extend our nationwide
18 fiber-optic network"⁵ and enhance Comcast's IPG platform to improve Comcast's
19 ability to compete with its competitors. Importantly, the 2004 Agreement was not a
20 sale of technology from Gemstar to Comcast by which Comcast "acquired" the
21 technology from Gemstar; it was a license for a fixed term during which Comcast had
22 permission from Gemstar to use that technology for specific purposes, but only until
23 the license expired. The 2004 Agreement included a Joint Venture with Gemstar

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26 ⁵ See Comcast Annual Report 2004 at 18, available at
27 [http://www.annualreports.com/HostedData/AnnualReportArchive/c/NASDAQ_CMC](http://www.annualreports.com/HostedData/AnnualReportArchive/c/NASDAQ_CMC_SA_2004.pdf)
28 SA_2004.pdf.

1 called GuideWorks, under which Gemstar would help Comcast develop a next
2 generation IPG platform, as well as a license to Gemstar’s guidance patent portfolio.

3 52. Comcast’s use of Rovi’s (then Gemstar’s) technology to develop and
4 enhance IPGs to be offered by Comcast is evidenced, among other ways, by
5 Comcast’s description of the 2004 Agreement in the Comcast 2006 10K SEC filing.
6 Comcast stated, “This [2004 Agreement] allows us to utilize Gemstar’s intellectual
7 property and technology and the TV Guide brand and content on our interactive
8 program guides. . . . In addition, we and Gemstar formed an entity to develop and
9 enhance interactive programming guides.”⁶

10 53. In order to further secure improved products and services, in 2004,
11 “Comcast sign[ed] strategic agreements with Gemstar-TV Guide and Microsoft to
12 develop enhancements to the user interface and the functionality of its service
13 offerings.”⁷

14 54. Comcast’s 10K SEC filings from 2004 to date consistently evidence
15 Comcast’s recognition of the importance to its profitability and success of the
16 technology needed to provide advanced services in connection with its digital cable
17 and high-speed internet services, including VOD, high-definition television (HDTV)
18 programming and DVRs. In fact, in its 2004 10K, Comcast noted that its “subscriber
19 growth is attributable to new and improved products and advanced services in our
20 digital cable and high-speed Internet services.”⁸ Each filing thereafter provides
21 additional evidence that Comcast recognized the importance of its advanced services.
22 Increased competition from telecommunications providers, ISPs, and satellite

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25 ⁶ *Id.* at 48.

26 ⁷ *See Comcast Timeline*, COMCAST, [http://corporate.comcast.com/news-](http://corporate.comcast.com/news-information/timeline)
27 [information/timeline](http://corporate.comcast.com/news-information/timeline) (last visited Dec. 28, 2017).

28 ⁸ *See Comcast Annual Report 2004* at 18.

1 companies in the provision and delivery of new and advanced services was, and since
2 2004 has been, one of Comcast's greatest competitive concerns.

3 55. Rovi is informed and believes that the technology Rovi made available to
4 Comcast during the term of the 2004 Agreement was foundational to Comcast's
5 ability from 2004 to the present to offer new and advanced services, to grow its
6 business, and to develop its own IPG and advanced service platforms, and throughout
7 that period Comcast personnel were aware of these facts. In 2010, Comcast and Rovi
8 terminated their joint venture, while at the same time Comcast reaffirmed its need for
9 Rovi technology by entering into an expanded patent license agreement with Rovi.
10 Indeed, Rick Rioboli, SVP, Comcast Metadata Products and Search Services,
11 remarked that "Rovi has been a very important partner of ours for many years."

12 56. In 2012, during the pendency of its soon-to-expire license to Rovi's
13 patents, Comcast launched the X1 IPG Product, which it describes as "a cloud-enabled
14 video platform that transformed the TV into an interactive, integrated entertainment
15 experience."⁹

16 57. In 2014, also during the pendency of its soon-to-expire License to Rovi's
17 patents, Comcast introduced the next generation of its X1 IPG Product, which it
18 describes as "designed to make navigation, search and discovery of content easier and
19 quicker than ever before. The X1 IPG Product gives customers an interactive TV
20 experience, providing instant access to all of their Entertainment."¹⁰

21 58. As set forth herein, Comcast's X1 IPG Product is designed to and does
22 infringe at least one claim of each of the Asserted Patents.

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25 ⁹ See *Our Story*, COMCAST, <http://corporate.comcast.com/our-company/our-story>,
26 archived at
[https://web.archive.org/web/20170519044316/http://corporate.comcast.com/our-](https://web.archive.org/web/20170519044316/http://corporate.comcast.com/our-company/our-story)
27 [company/our-story](http://corporate.comcast.com/our-company/our-story).

28 ¹⁰ *Id.*