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7 Attorneys for Plaintiff
8 LENOVO (UNITED STATES) INC.

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12 LENOVO (UNITED STATES) INC.,

13 Plaintiff,

14 vs.

15 NOKIA TECHNOLOGIES OY,

16 Defendant.

Case No.

COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff Lenovo (United States) Inc. (“Lenovo United States”), on personal knowledge as
2 to its own acts, and on information and belief as to all other acts based on its own and its
3 attorneys’ investigation, by and through its attorneys, alleges as follows:

4 **INTRODUCTION**

5 1. Defendant Nokia Technologies Oy (“Nokia Oy”) has asserted, and continues to
6 assert, that Lenovo United States is required to take a license to patents that Nokia Oy claims to
7 own and claims are essential to practice the H.264 video compression standard. However, with
8 respect to each of the nineteen patents discussed below (“Nokia Patents”), the prior owner (Nokia
9 Corporation) failed to comply with its contractual obligation to disclose any rights in the allegedly
10 essential Nokia Patents to the relevant standards-setting organization before the H.264 standard
11 was “frozen”—thus depriving members of the ability to take those alleged patent rights into
12 account when the standard was still under development.

13 2. Because this late disclosure breached the contract that existed between Nokia
14 Corporation and the H.264 standards-setting organization (and Lenovo United States is a third-
15 party beneficiary of that contract and has suffered harm as a result of the breach) and also violated
16 California unfair competition law, each of the Nokia Patents is unenforceable against the H.264
17 standard. Moreover, because this repeated late disclosure was egregious, and because Nokia Oy
18 and/or Nokia Corporation have leveraged the allegedly standard-essential nature of the late-
19 disclosed Nokia Patents to obtain unjust benefits, the Nokia Patents are unenforceable against the
20 H.264 standard under the doctrine of implied waiver.

21 **PARTIES**

22 3. Plaintiff Lenovo United States is a company organized under the laws of Delaware,
23 with its principal place of business at 8001 Development Drive, Morrisville, North Carolina
24 27560.

1 technology. As a result, a patent holder may demand royalties attributable to inclusion of the
2 patented technology in the standard rather than the actual value of the patented technology.

3 15. The danger that a patent holder will gain an arbitrary and unfair advantage in
4 demanding royalties is particularly high when an SSO standardization participant proposes ideas
5 to be included in the standard that are identical or similar to the ideas the participant separately
6 seeks to patent (or has already patented). Such a situation creates the risk that a participant will
7 intentionally push the SSO to adopt—unknowingly—the participant’s patented technology, even
8 though the SSO might have adopted a different technology or excluded the functionality from the
9 standard if the SSO was timely made aware that the patent-holding participant claims to have
10 patent rights covering the technology under consideration.

11 16. In response to this substantial risk of exploitative behavior, most SSOs have adopted
12 intellectual property rights (IPR) policies that seek to minimize the potential for this type of abuse.
13 Among other things, these IPR policies typically require participants to timely disclose any
14 alleged standard-essential patent rights (including rights in pending patent applications) that might
15 cover the technology that the SSO is considering for standardization. By requiring members to
16 declare any patent rights that, if adopted into the standard, might be essential to practice the
17 standard, members can evaluate alternative technical proposals, decide not to include the proposed
18 technology, and consider other potential implications of any patents that that might cover the
19 various proposals—all *before* the standard is frozen and *before* industry participants become
20 locked into implementing the standard in their products.

21 17. SSOs adopt such disclosure policies to promote the widespread use of their
22 standards by suppliers and consumers. Standards that are developed subject to a requirement of
23 full, timely disclosure of potentially essential patent rights ensure that the resulting standard is not
24 encumbered by patents that SSO members were unaware of during the standardization process.

25 **THE H.264 STANDARD**

26 18. This Complaint concerns nineteen patents that Nokia Oy and/or Nokia Corporation
27 have claimed are essential to practice the H.264 video compression standard.

28

1 19. The H.264 standard was developed by the Joint Video Team (“JVT”), which is an
2 SSO composed of (1) the Motion Picture Experts Group (MPEG), which is the video subgroup of
3 the International Organization for Standardization/International Electrotechnical Commission
4 (“ISO/IEC”), and (2) the Video Coding Experts Group (“VCEG”), which is a subgroup of the
5 International Telecommunications Union (“ITU”). According to the ITU’s Term of Reference for
6 Joint Video Team (JVT) Activities, the JVT operated as a “joint group under the ordinary policies
7 and procedures of both organisations,” and committed to working in compliance with the IPR
8 policies, reporting requirements, and procedures of the ITU and the ISO/IEC.²

9 20. Early development of the H.264 standard was performed by the ITU’s VCEG, and
10 the JVT was created in 2001 to finalize it. The first version of the H.264 standard was frozen and
11 then published in May 2003. Subsequent editions were published in March 2005, November
12 2007, and approximately annually thereafter.

13 21. According to the ITU, H.264 “represents an evolution of the existing video coding
14 standards” and “was developed in response to the growing need for higher compression of moving
15 pictures for various applications such as videoconferencing, digital storage media, television
16 broadcasting, Internet streaming, and communication.”³

17 **DISCLOSURE OBLIGATIONS UNDER THE ITU’S PATENT POLICY**

18 22. At all times relevant to these allegations, Nokia Corporation was a member of the
19 ITU-T⁴ and actively participated in developing the H.264 standard, including by attending
20 meetings and making technical proposals for certain aspects of the H.264 standard. As a result,
21 Nokia Corporation was bound by the ITU’s Patent Policy (now known as the Common Patent
22

23 ² ITU, “Terms of Reference for the Joint Video Team (JVT) Activities,”
24 https://www.itu.int/dms_pub/itu-t/oth/34/01/T34010000010001PDFE.pdf (last visited December
25 7, 2020).]

25 ³ ITU-T, “Summary,” [http://www.itu.int/dms_pubrec/itu-t/rec/h/T-REC-H.264-200901-
26 S!Cor1!SUM-HTML-E.htm](http://www.itu.int/dms_pubrec/itu-t/rec/h/T-REC-H.264-200901-S!Cor1!SUM-HTML-E.htm) (last visited December 7, 2020).]

26 ⁴ The ITU-T is the sector of the ITU that focuses on standardization. The ITU-T “assembles
27 experts from around the world to develop international standards known as ITU-T
28 Recommendations, which act as defining elements of the global infrastructure of information and
communication technologies.” ITU, <https://www.itu.int/en/join/Pages/default.aspx> (last visited
December 7, 2020).

1 Policy for the ITU-T/ITU-R/ISO/IEC). As assignee of the Nokia Patents, Nokia Oy is bound by
2 the contractual commitments that Nokia Corporation owed under the ITU Patent Policy, and also
3 stands in the shoes of Nokia Corporation with respect to any remedies arising from a breach or
4 other violation of those contractual commitments.⁵

5 23. The ITU Patent Policy in effect when Nokia Corporation began participating in
6 development of the H.264 standard states that “any ITU-T member organization putting forward a
7 standardization proposal should, from the outset, draw the attention of the [Telecommunication
8 Standardization Bureau (TSB)] to any known patent or to any known pending patent application,
9 either their own or of other organizations.”⁶

10 24. The ITU’s Guidelines for Implementation of the ITU Patent Policy state (1) “[t]he
11 term ‘from the outset’ as it appears in paragraph 1 of the TSB Patent Policy . . . implies that such
12 information should be disclosed as soon as possible, i.e. as soon as it is becoming clear that an
13 evolving draft Recommendation will, in fact, fully or partly include patented elements”;⁷ and (2)
14 “[a]ny ITU Member State or Sector Member organization aware of a patent held by itself or
15 others, which may fully or partly cover elements of the draft Recommendation(s) proposed for
16 approval, is requested to disclose such information to the TSB, in no case later than the date
17 scheduled for approval of the Recommendation(s).”⁸ According to the Guidelines’ statement of
18 purpose, “[t]he guidelines encourage the early disclosure and identification of patents that may
19 relate to Recommendations under development. In doing so, greater efficiency in standards
20 development is possible and potential patent rights problems can be avoided.”⁹

21 25. Despite its involvement in developing the H.264 standard, and despite being bound
22 by the ITU’s Patent Policy, Nokia Corporation repeatedly failed to disclose during development of
23 the H.264 standard that it had rights in the Nokia Patents that Nokia Corporation and/or Nokia Oy

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25 ⁵ Ex. 1 (ITU, “Guidelines for Implementation of the Common Patent Policy for ITU-T/ITU-
R/ISO/IEC” (April 23, 2012) Part 7.)

26 ⁶ Ex. 2 (ITU, Guidelines for Implementation of the TSB Patent Policy (July 7, 1999), at 7
(Appendix I)).

27 ⁷ *Id.* at 3 (Section 2.4).

28 ⁸ *Id.* at 4 (Section 3.1).

⁹ *Id.* at 2 (Section 1).

1 have since claimed are essential to practice the H.264 standard. Indeed, Nokia Corporation did
2 not notify the ITU (or the ISO/IEC) about any of the Nokia Patents until long after the first
3 iteration of the H.264 standard was frozen and then published in May 2003.

4 26. Upon information and belief, Nokia Corporation did so to induce JVT/ITU members
5 to incorporate technology into the H.264 standard that Nokia Oy now contends is covered by the
6 Nokia Patents—but without providing those members with the ability to consider those alleged
7 patent rights before the H.264 standard was frozen. If Nokia Corporation had timely disclosed its
8 rights in the Nokia Patents, as it was contractually required to do, the JVT/ITU could have, for
9 example, adopted one or more alternative technologies or declined to include the relevant
10 functionality in the final standard. By failing to disclose its rights in the Nokia Patents before the
11 H.264 standard was frozen, Nokia deprived members of the ability to consider those options.

12 27. Members of the ITU and other third-party beneficiaries of Nokia Corporation's
13 obligations under the ITU Patent Policy reasonably expected Nokia Corporation to disclose its
14 known patents and patent applications at the outset of the standardization process, and not after
15 functionality allegedly covered by a patent or patent application was approved for incorporation
16 into the H.264 standard and/or after the H.264 standard was frozen. If Nokia Corporation held or
17 had applied for patents potentially essential to the H.264 standard, then under the binding
18 contractual rules of the ITU Patent Policy, Nokia Corporation was obligated to disclose those
19 patents from the outset, and at least before the H.264 standard was frozen.

20 28. Nokia Corporation did not submit a Patent Statement and Licensing Declaration to
21 the ITU specifically identifying any of the Nokia Patents (or the applications for those patents) as
22 allegedly essential to any specific aspect of the H.264 standard before the standard was frozen,
23 even though Nokia Corporation knew it possessed those patent rights during development of the
24 H.264 standard, as detailed below.

25 29. Indeed, Nokia Corporation did not disclose the existence of the Nokia Patents
26 (and/or applications for those patents) during the H.264 standard-setting process, even while
27 Nokia Corporation personnel (including named inventors of the asserted patents) participated in
28 the relevant working groups that adopted the same technology that Nokia Oy now claims is

1 covered by the Nokia Patents, and even though participants at meetings were frequently reminded
2 of the Patent Policy and their contractual obligation to disclose potentially essential patent rights.

3 30. Under the ITU Patent Policy, Nokia Corporation had binding contractual
4 commitments with the ITU, with ITU members, and with other SSOs participating in the H.264
5 standard development, all for the benefit of the SSOs, their members, and any entity involved in
6 making, using, selling, offering for sale, and/or importing products that support the H.264
7 standard, including Lenovo United States. All these entities reasonably relied on the ITU's rules,
8 including the ITU's Patent Policy, in supplying products that support the H.264 standard.

9 31. Lenovo United States has invested significant time and resources in connection with
10 supplying products in reliance on the transparency of the ITU's standard-setting process and the
11 requirement that H.264 participants comply with the ITU's rules, including the ITU's Patent
12 Policy requirement for members to timely disclose any patent rights that might be essential during
13 development of the H.264 standard.

14 32. Upon information and belief, Nokia Corporation's failure to timely disclose its
15 rights in the Nokia Patents was intended to and did cause ITU members to incorporate technology
16 into the H.264 standard that Nokia Corporation and/or Nokia Oy have since claimed is covered by
17 the Nokia Patents, all without the benefit of having knowledge of those alleged patent rights
18 before the H.264 standard was frozen. Upon information and belief, had Nokia Corporation
19 timely disclosed its rights in the Nokia Patents, JVT/ITU members would have decided to adopt
20 an alternative technology to perform the relevant functionality or left the relevant technology out
21 of the H.264 standard. Nokia Corporation's conduct therefore distorted and impaired the
22 standardization process in a manner that has harmed Lenovo United States and others, such that
23 the accused functionality would not have been included in the H.264 standard but for the lack of
24 timely disclosure.

25 33. This standards-setting misconduct is not an isolated incident, as Nokia Corporation
26 has a history of failing to disclose its allegedly essential patent rights to standards setting
27 organizations. As just one example, the Federal Circuit determined in *Core Wireless Licensing*
28 *S.A.R.L. v. Apple Inc.* that Nokia had a duty to disclose its allegedly essential patent rights before

1 the relevant standard was frozen, and breached that contractual obligation by waiting years after
2 the standard was frozen to first do so. 899 F.3d 1356, 1368 (Fed. Cir. 2018).

3 **THE '576 PATENT**

4 34. U.S. Patent No. 7,006,576 (“the ’576 patent”) is titled “Video Coding,” and names
5 Miska Hannuksela as inventor.

6 35. Upon information and belief, the ’576 patent is assigned to Nokia Oy.

7 36. As assignee of the ’576 patent, which was assigned to Nokia Corporation during the
8 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
9 rights and obligations under the ’576 patent and to Nokia Corporation’s rights and obligations
10 arising under the ITU Patent Policy with respect to the ’576 patent.

11 37. The ’576 patent issued on February 28, 2006, from an application filed July 19,
12 2000, and claims priority to an application filed on July 19, 1999.

13 38. Upon information and belief, Nokia Oy contends that the ’576 patent is essential to
14 practice certain aspects of the H.264 standard.

15 39. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
16 ’576 patent or its underlying application to the ITU as potentially essential to the H.264 standard
17 before the relevant provisions of the H.264 standard were frozen.

18 **THE '211 PATENT**

19 40. U.S. Patent No. 6,711,211 (“the ’211 patent”) is titled “Method for Encoding and
20 Decoding Video Information, a Motion Compensated Video Encoder and a Corresponding
21 Decoder,” and names Jani Lainema as inventor.

22 41. Upon information and belief, the ’211 patent is assigned to Nokia Oy.

23 42. As assignee of the ’211 patent, which was assigned to Nokia Corporation during the
24 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
25 rights and obligations under the ’211 patent and to Nokia Corporation’s rights and obligations
26 arising under the ITU Patent Policy with respect to the ’211 patent.

27 43. The ’211 patent issued on March 23, 2004, from an application filed May 8, 2000.
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1 44. Upon information and belief, Nokia Oy contends that the '211 patent is essential to
2 practice certain aspects of the H.264 standard.

3 45. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
4 '211 patent or its underlying application to the ITU as potentially essential to the H.264 standard
5 before the relevant provisions of the H.264 standard were frozen.

6 **THE '268 PATENT**

7 46. U.S. Patent No. 6,879,268 (“the '268 patent”) is titled “Adaptive Variable Length
8 Coding of Digital Video,” and names Marta Karczewicz as inventor.

9 47. Upon information and belief, the '268 patent is assigned to Nokia Oy.

10 48. As assignee of the '268 patent, which was assigned to Nokia Corporation during the
11 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
12 rights and obligations under the '268 patent and to Nokia Corporation’s rights and obligations
13 arising under the ITU Patent Policy with respect to the '268 patent.

14 49. The '268 patent issued on April 12, 2005, from an application filed July 29, 2003,
15 and claims priority to an application filed on January 22, 2002.

16 50. Upon information and belief, Nokia Oy contends that the '268 patent is essential to
17 practice certain aspects of the H.264 standard.

18 51. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
19 '268 patent or its underlying application to the ITU as potentially essential to the H.264 standard
20 before the relevant provisions of the H.264 standard were frozen.

21 **THE '502 PATENT**

22 52. U.S. Patent No. 6,954,502 (“the '502 patent”) is titled “Method for Encoding and
23 Decoding Video Information, a Motion Compensated Video Encoder and a Corresponding
24 Decoder,” and names Jani Lainema as inventor.

25 53. Upon information and belief, the '502 patent is assigned to Nokia Oy.

26 54. As assignee of the '502 patent, which was assigned to Nokia Corporation during the
27 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
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1 rights and obligations under the '502 patent and to Nokia Corporation's rights and obligations
2 arising under the ITU Patent Policy with respect to the '502 patent.

3 55. The '502 patent issued on October 11, 2005, from an application filed February 3,
4 2004, and claims priority to an application filed on May 8, 2000.

5 56. Upon information and belief, Nokia Oy contends that the '502 patent is essential to
6 practice certain aspects of the H.264 standard.

7 57. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
8 '502 patent or its underlying application to the ITU as potentially essential to the H.264 standard
9 before the relevant provisions of the H.264 standard were frozen.

10 **THE '450 PATENT**

11 58. U.S. Patent No. 7,082,450 ("the '450 patent") is titled "Implementation of a
12 Transform and of a Subsequent Quantization," and names Antti Hallapuro and Kim Simelius as
13 inventors.

14 59. Upon information and belief, the '450 patent is assigned to Nokia Oy.

15 60. As assignee of the '450 patent, which was assigned to Nokia Corporation during the
16 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation's
17 rights and obligations under the '450 patent and to Nokia Corporation's rights and obligations
18 arising under the ITU Patent Policy with respect to the '450 patent.

19 61. The '450 patent issued on July 25, 2006, from an application filed August 30, 2001.

20 62. Upon information and belief, Nokia Oy contends that the '450 patent is essential to
21 practice certain aspects of the H.264 standard.

22 63. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
23 '450 patent or its underlying application to the ITU as potentially essential to the H.264 standard
24 before the relevant provisions of the H.264 standard were frozen.

25 **THE '456 PATENT**

26 64. U.S. Patent No. 7,206,456 ("the '456 patent") is titled "Method for Encoding and
27 Decoding Video Information, a Motion Compensated Video Encoder and a Corresponding
28 Decoder," and names Jani Lainema as inventor.

1 65. Upon information and belief, the '456 patent is assigned to Nokia Oy.

2 66. As assignee of the '456 patent, which was assigned to Nokia Corporation during the
3 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation's
4 rights and obligations under the '456 patent and to Nokia Corporation's rights and obligations
5 arising under the ITU Patent Policy with respect to the '456 patent.

6 67. The '456 patent issued on April 17, 2007, from an application filed November 26,
7 2002, and claims priority to an application filed on November 27, 2001.

8 68. Upon information and belief, Nokia Oy contends that the '456 patent is essential to
9 practice certain aspects of the H.264 standard.

10 69. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
11 '456 patent or its underlying application to the ITU as potentially essential to the H.264 standard
12 before the relevant provisions of the H.264 standard were frozen.

13 **THE '674 PATENT**

14 70. U.S. Patent No. 7,289,674 ("the '674 patent") is titled "Spatial Prediction Based
15 Intra Coding," and names Marta Karczewicz as inventor.

16 71. Upon information and belief, the '674 patent is assigned to Nokia Oy.

17 72. As assignee of the '674 patent, which was assigned to Nokia Corporation during the
18 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation's
19 rights and obligations under the '674 patent and to Nokia Corporation's rights and obligations
20 arising under the ITU Patent Policy with respect to the '674 patent.

21 73. The '674 patent issued on October 30, 2007, from an application filed June 10,
22 2003, and claims priority to an application filed on June 11, 2002.

23 74. Upon information and belief, Nokia Oy contends that the '674 patent is essential to
24 practice certain aspects of the H.264 standard.

25 75. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
26 '674 patent or its underlying application to the ITU as potentially essential to the H.264 standard
27 before the relevant provisions of the H.264 standard were frozen.

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THE '001 PATENT

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2 76. U.S. Patent No. 7,302,001 (“the ’001 patent”) is titled “Random Access Points in
3 Video Coding,” and names Ye-Kui Wang and Miska Hannuksela as inventors.

4 77. Upon information and belief, the ’001 patent is assigned to Nokia Oy.

5 78. As assignee of the ’001 patent, which was assigned to Nokia Corporation during the
6 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
7 rights and obligations under the ’001 patent and to Nokia Corporation’s rights and obligations
8 arising under the ITU Patent Policy with respect to the ’001 patent.

9 79. The ’001 patent issued on November 27, 2007, from an application filed April 28,
10 2003, and claims priority to an application filed on April 29, 2002.

11 80. Upon information and belief, Nokia Oy contends that the ’001 patent is essential to
12 practice certain aspects of the H.264 standard.

13 81. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
14 ’001 patent or its underlying application to the ITU as potentially essential to the H.264 standard
15 before the relevant provisions of the H.264 standard were frozen.

THE '660 PATENT

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17 82. U.S. Patent No. 7,403,660 (“the ’660 patent”) is titled “Encoding Picture
18 Arrangement Parameter in Picture Bitstream,” and names Miska Hannuksela as inventor.

19 83. Upon information and belief, the ’660 patent is assigned to Nokia Oy.

20 84. As assignee of the ’660 patent, which was assigned to Nokia Corporation during the
21 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
22 rights and obligations under the ’660 patent and to Nokia Corporation’s rights and obligations
23 arising under the ITU Patent Policy with respect to the ’660 patent.

24 85. The ’660 patent issued on July 22, 2008, from an application filed April 30, 2003.

25 86. Upon information and belief, Nokia Oy contends that the ’660 patent is essential to
26 practice certain aspects of the H.264 standard.

1 87. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
2 '660 patent or its underlying application to the ITU as potentially essential to the H.264 standard
3 before the relevant provisions of the H.264 standard were frozen.

4 **THE '447 PATENT**

5 88. U.S. Patent No. 7,706,447 (“the '447 patent”) is titled “Switching Between
6 Bitstreams in Video Transmission,” and names Marta Karczewicz and Ragip Kurcenen as
7 inventors.

8 89. Upon information and belief, the '447 patent is assigned to Nokia Oy.

9 90. As assignee of the '447 patent, which was assigned to Nokia Corporation during the
10 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
11 rights and obligations under the '447 patent and to Nokia Corporation’s rights and obligations
12 arising under the ITU Patent Policy with respect to the '447 patent.

13 91. The '447 patent issued on April 27, 2010, from an application filed January 3, 2002,
14 and claims priority to an application filed on January 3, 2001.

15 92. Upon information and belief, Nokia Oy contends that the '447 patent is essential to
16 practice certain aspects of the H.264 standard.

17 93. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
18 '447 patent or its underlying application to the ITU as potentially essential to the H.264 standard
19 before the relevant provisions of the H.264 standard were frozen.

20 **THE '052 PATENT**

21 94. U.S. Patent No. 7,711,052 (“the '052 patent”) is titled “Video Coding,” and names
22 Miska Hannuksela and Kerem Caglar as inventors.

23 95. Upon information and belief, the '052 patent is assigned to Nokia Oy.

24 96. As assignee of the '052 patent, which was assigned to Nokia Corporation during the
25 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
26 rights and obligations under the '052 patent and to Nokia Corporation’s rights and obligations
27 arising under the ITU Patent Policy with respect to the '052 patent.

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1 97. The '052 patent issued on May 4, 2010, from an application filed May 15, 2001, and
2 claims priority to an application filed on May 15, 2000.

3 98. Upon information and belief, Nokia Oy contends that the '052 patent is essential to
4 practice certain aspects of the H.264 standard.

5 99. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
6 '052 patent or its underlying application to the ITU as potentially essential to the H.264 standard
7 before the relevant provisions of the H.264 standard were frozen.

8 **THE '473 PATENT**

9 100. U.S. Patent No. 7,751,473 (“the '473 patent”) is titled “Video Coding,” and names
10 Miska Hannuksela as inventor.

11 101. Upon information and belief, the '473 patent is assigned to Nokia Oy.

12 102. As assignee of the '473 patent, which was assigned to Nokia Corporation during the
13 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
14 rights and obligations under the '473 patent and to Nokia Corporation’s rights and obligations
15 arising under the ITU Patent Policy with respect to the '473 patent.

16 103. The '473 patent issued on July 6, 2010, from an application filed May 2, 2002, and
17 claims priority to an application filed on May 15, 2000.

18 104. Upon information and belief, Nokia Oy contends that the '473 patent is essential to
19 practice certain aspects of the H.264 standard.

20 105. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
21 '473 patent or its underlying application to the ITU as potentially essential to the H.264 standard
22 before the relevant provisions of the H.264 standard were frozen.

23 **THE '531 PATENT**

24 106. U.S. Patent No. 7,826,531 (“the '531 patent”) is titled “Indicating Regions Within a
25 Frame,” and names Ye-Kui Wang and Miska Hannuksela as inventors.

26 107. Upon information and belief, the '531 patent is assigned to Nokia Oy.

27 108. As assignee of the '531 patent, which was assigned to Nokia Corporation during the
28 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s

1 rights and obligations under the '531 patent and to Nokia Corporation's rights and obligations
2 arising under the ITU Patent Policy with respect to the '531 patent.

3 109. The '531 patent issued on November 2, 2010, from an application filed January 19,
4 2006, and claims priority to an application filed on April 29, 2002.

5 110. Upon information and belief, Nokia Oy contends that the '531 patent is essential to
6 practice certain aspects of the H.264 standard.

7 111. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
8 '531 patent or its underlying application to the ITU as potentially essential to the H.264 standard
9 before the relevant provisions of the H.264 standard were frozen.

10 **THE '145 PATENT**

11 112. U.S. Patent No. 8,005,145 ("the '145 patent") is titled "Method and Apparatus for
12 Transferring Video Frame in Telecommunication System," and names Jani Lainema as inventor.

13 113. Upon information and belief, the '145 patent is assigned to Nokia Oy.

14 114. As assignee of the '145 patent, which was assigned to Nokia Corporation during the
15 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation's
16 rights and obligations under the '145 patent and to Nokia Corporation's rights and obligations
17 arising under the ITU Patent Policy with respect to the '145 patent.

18 115. The '145 patent issued on August 23, 2011, from an application filed July 6, 2004,
19 and claims priority to an application filed on August 11, 2000.

20 116. Upon information and belief, Nokia Oy contends that the '145 patent is essential to
21 practice certain aspects of the H.264 standard.

22 117. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
23 '145 patent or its underlying application to the ITU as potentially essential to the H.264 standard
24 before the relevant provisions of the H.264 standard were frozen.

25 **THE '321 PATENT**

26 118. U.S. Patent No. 8,050,321 ("the '321 patent") is titled "Grouping of Image Frames
27 in Video Coding," and names Miska Hannuksela as inventor.

28 119. Upon information and belief, the '321 patent is assigned to Nokia Oy.

1 120. As assignee of the '321 patent, which was assigned to Nokia Corporation during the
2 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation's
3 rights and obligations under the '321 patent and to Nokia Corporation's rights and obligations
4 arising under the ITU Patent Policy with respect to the '321 patent.

5 121. The '321 patent issued on November 1, 2011, from an application filed January 25,
6 2006, and claims priority to an application filed on January 23, 2002.

7 122. Upon information and belief, Nokia Oy contends that the '321 patent is essential to
8 practice certain aspects of the H.264 standard.

9 123. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
10 '321 patent or its underlying application to the ITU as potentially essential to the H.264 standard
11 before the relevant provisions of the H.264 standard were frozen.

12 **THE '539 PATENT**

13 124. U.S. Patent No. 8,107,539 ("the '539 patent") is titled "Method for Error
14 Concealment in Video Sequences," and names Miska Hannuksela and Ye-Kui Wang as inventors.

15 125. Upon information and belief, the '539 patent is assigned to Nokia Oy.

16 126. As assignee of the '539 patent, which was assigned to Nokia Corporation during the
17 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation's
18 rights and obligations under the '539 patent and to Nokia Corporation's rights and obligations
19 arising under the ITU Patent Policy with respect to the '539 patent.

20 127. The '539 patent issued on January 31, 2012, from an application filed July 15, 2003,
21 and claims priority to an application filed on July 15, 2002.

22 128. Upon information and belief, Nokia Oy contends that the '539 patent is essential to
23 practice certain aspects of the H.264 standard.

24 129. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
25 '539 patent or its underlying application to the ITU as potentially essential to the H.264 standard
26 before the relevant provisions of the H.264 standard were frozen.

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THE '744 PATENT

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2 130. U.S. Patent No. 8,107,744 (“the ’744 patent”) is titled “Picture Buffering for
3 Prediction References and Display,” and names Dong Tian, Miska Hannuksela, and Ye-Kui Wang
4 as inventors.

5 131. Upon information and belief, the ’744 patent is assigned to Nokia Oy.

6 132. As assignee of the ’744 patent, which was assigned to Nokia Corporation during the
7 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
8 rights and obligations under the ’744 patent and to Nokia Corporation’s rights and obligations
9 arising under the ITU Patent Policy with respect to the ’744 patent.

10 133. The ’744 patent issued on January 31, 2012, from an application filed November 6,
11 2003, and claims priority to an application filed on December 3, 2002.

12 134. Upon information and belief, Nokia Oy contends that the ’744 patent is essential to
13 practice certain aspects of the H.264 standard.

14 135. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
15 ’744 patent or its underlying application to the ITU as potentially essential to the H.264 standard
16 before the relevant provisions of the H.264 standard were frozen.

17 **THE '134 PATENT**

18 136. U.S. Patent No. 8,204,134 (“the ’134 patent”) is titled “Grouping of Image Frames
19 in Video Coding,” and names Miska Hannuksela as inventor.

20 137. Upon information and belief, the ’134 patent is assigned to Nokia Oy.

21 138. As assignee of the ’134 patent, which was assigned to Nokia Corporation during the
22 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
23 rights and obligations under the ’134 patent and to Nokia Corporation’s rights and obligations
24 arising under the ITU Patent Policy with respect to the ’134 patent.

25 139. The ’134 patent issued on June 19, 2012, from an application filed January 25, 2006,
26 and claims priority to an application filed on January 23, 2002.

27 140. Upon information and belief, Nokia Oy contends that the ’134 patent is essential to
28 practice certain aspects of the H.264 standard.

1 141. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
2 '134 patent or its underlying application to the ITU as potentially essential to the H.264 standard
3 before the relevant provisions of the H.264 standard were frozen.

4 **THE '863 PATENT**

5 142. U.S. Patent No. 8,654,863 (“the '863 patent”) is titled “Video Coding,” and names
6 Miska Hannuksela as inventor.

7 143. Upon information and belief, the '863 patent is assigned to Nokia Oy.

8 144. As assignee of the '863 patent, which was assigned to Nokia Corporation during the
9 development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
10 rights and obligations under the '863 patent and to Nokia Corporation’s rights and obligations
11 arising under the ITU Patent Policy with respect to the '863 patent.

12 145. The '863 patent issued on February 18, 2014, from an application filed April 6,
13 2005, and claims priority to an application filed on July 19, 1999.

14 146. Upon information and belief, Nokia Oy contends that the '863 patent is essential to
15 practice certain aspects of the H.264 standard.

16 147. Upon information and belief, Nokia Corporation and Nokia Oy did not disclose the
17 '863 patent or its underlying application to the ITU as potentially essential to the H.264 standard
18 before the relevant provisions of the H.264 standard were frozen.

19 **COUNT I: BREACH OF CONTRACT**

20 148. Lenovo United States repeats and realleges the allegations in the foregoing
21 Paragraphs as if set forth fully herein.

22 149. At all relevant times, Nokia Corporation had a contractual duty under the ITU’s
23 Patent Policy to disclose any patent rights that might be essential to the H.264 standard before the
24 standard was frozen. As assignee of the Nokia Patents, Nokia Oy is bound by the contractual
25 commitments that Nokia Corporation owed under the ITU’s Patent Policy, and is successor-in-
26 interest with respect to Nokia Corporation’s rights and obligations arising under that Policy,
27 including with respect to the obligation to disclose any allegedly essential patents rights before the
28 H.264 standard was frozen.

1 150. During development of the H.264 standard, Nokia Corporation employees attended
2 meetings and submitted proposals for technology to be included in the H.264 standard. However,
3 at no time during that process did Nokia Corporation disclose that it had previously filed patent
4 applications to which the Nokia Patents claim priority. Rather, only after the H.264 standard was
5 frozen did Nokia Corporation and/or Nokia Oy first claim that the Nokia Patents are essential to
6 the standard. This late disclosure breached Nokia Corporation's contractual duty under the Patent
7 Policy, and Nokia Oy now stands in Nokia Corporation's shoes with respect to these breaches.

8 151. Lenovo and others relied on the ITU's Patent Policy, and reasonably expected that
9 ITU participants and their successors-in-interest, including Nokia Corporation and/or Nokia Oy,
10 had complied with all aspects of that Policy during development of the H.264 standard.

11 152. Every party making, using, selling, offering for sale, and/or importing products that
12 support aspects of the H.264 standard, including Lenovo United States, is an intended third-party
13 beneficiary of Nokia Corporation's and/or Nokia Oy's contractual commitments under the ITU's
14 Patent Policy, including the requirement for members to timely to disclose any allegedly essential
15 patent rights before the H.264 standard was frozen.

16 153. As a direct, proximate, and foreseeable result of Nokia Corporation's and/or Nokia
17 Oy's breach of the ITU Patent Policy with respect to late disclosure of each of the Nokia Patents,
18 as alleged above, Lenovo United States has suffered harm, both as a customer and as a supplier of
19 downstream products. This harm includes, among other things, being forced to defend against
20 Nokia Oy's claims that it is entitled to royalties based on patents that are allegedly essential to the
21 H.264 standard but that were not timely disclosed in violation of the ITU's Patent Policy—and
22 therefore for which Nokia Oy is not entitled to claim any royalties. The harm to Lenovo also
23 includes being threatened with increased costs, loss of profits, loss of customers and potential
24 customers, loss of goodwill and product image, uncertainty in business planning, and uncertainty
25 among customers and potential customers as a result of Nokia Oy's allegations.

26 **COUNT II: VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW**

27 154. Lenovo United States repeats and realleges the allegations in the foregoing
28 Paragraphs as if set forth fully herein.

1 155. By the acts alleged, Nokia Corporation and/or Nokia Oy have engaged in unlawful,
2 unfair, and/or fraudulent business acts or practices within the meaning of the California Unfair
3 Competition Law, Business and Professions Code (“UCL”) §§ 17200 et seq. The UCL prohibits,
4 among other things, practices that offend established public policy or are unethical, oppressive,
5 unscrupulous, or substantially injurious to consumers. The UCL likewise prohibits deceptive
6 business practices.

7 156. Nokia Corporation and/or its successor-in-interest Nokia Oy committed such
8 wrongful actions at least by engaging in a pattern of failing to timely disclose any of the Nokia
9 Patents during development of the H.264 standard, despite a contractual obligation to do so—all
10 while actively participating in the H.264 standard-setting process. Nokia Corporation submitted
11 proposals for technology to be included in the H.264 standard, while separately filing the
12 applications leading to the Nokia Patents, and without declaring any of the Nokia Patents as
13 allegedly essential to the H.264 standard before the standard was frozen. Nokia Corporation
14 and/or Nokia Oy then later claimed that the Nokia Patents are essential to practice that standard.

15 157. Nokia Corporation and Nokia Oy’s pattern of behavior violated the rules of the
16 H.264 standard-setting organizations and unfairly and deceptively prevented those organizations
17 from fully evaluating relevant technologies under consideration when developing the H.264
18 standard. Due to that late disclosure, industry participants became “locked in” to use the
19 standardized functionality that Nokia Oy now claims is covered by the Nokia Patents, but without
20 the benefit of considering those patent rights during development of the standard (which, among
21 other things, upon information and belief, would have resulted in the selection of a competing
22 technology or elimination of the functionality altogether).

23 158. Lenovo and others relied on the ITU’s Patent Policy, and reasonably expected that
24 ITU participants, including Nokia Corporation and/or its successor-in-interest Nokia Oy, had
25 complied with all aspects of that Policy during development of the H.264 standard.

26 159. As assignee of the Nokia Patents, which were assigned to Nokia Corporation during
27 the development of the H.264 standard, Nokia Oy is successor-in-interest to Nokia Corporation’s
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1 obligations as a participant in development of the H.264 standard and to Nokia Corporation's
2 rights and obligations arising under the ITU Patent Policy with respect to the Nokia Patents.

3 160. Nokia Oy has demanded licensing fees for the Nokia Patents that were not timely
4 disclosed in contravention of the ITU's Patent Policy (and thus, for which Nokia Oy is not entitled
5 to collect any royalties based on alleged practice of the H.264 standard). Nokia Oy's patent
6 monetization conduct with respect to the Nokia Patents is based on the assertion of allegedly
7 essential patents that were not disclosed to the ITU before the H.264 standard was frozen, and for
8 which Nokia Oy now seeks excessive, supra-RAND royalties including because Nokia Oy is not
9 entitled to collect any royalties from Lenovo United States on these untimely disclosed patents.

10 161. As a direct, proximate, and foreseeable result of Nokia Corporation and Nokia Oy's
11 unfair, deceptive, and wrongful conduct, as alleged above, Lenovo United States has suffered
12 harm, both as a customer and as a supplier of downstream products. This harm includes, among
13 other things, suffering or being threatened with increased costs, loss of profits, loss of customers
14 and potential customers, loss of goodwill and product image, uncertainty in business planning, and
15 uncertainty among customers and potential customers.

16 162. The harm from Nokia Corporation and Nokia Oy's wrongful conduct also includes
17 harm to the public and/or to competition in the form of lack of adoption of alternative
18 technologies, higher prices and reduced innovation and quality for U.S. consumers purchasing
19 products that support the H.264 standard, undermining the procompetitive aspects of standard
20 setting processes, and chilling incentives to participate in beneficial standard setting processes.
21 Unless such wrongful conduct is enjoined, Lenovo and the public will continue to suffer
22 irreparable harm as a result of this wrongful conduct.

23 **COUNT III: DECLARATORY JUDGMENT OF UNENFORCEABILITY**

24 163. Lenovo United States repeats and realleges the allegations in the foregoing
25 Paragraphs as if set forth fully herein.

26 164. At all relevant times, Nokia Corporation and/or its successor-in-interest Nokia Oy
27 had a contractual duty under the ITU's Patent Policy to disclose patent rights that might be
28 essential to the H.264 standard.

1 165. During development of the H.264 standard, Nokia Corporation employees attended
2 meetings and submitted proposals for technology to be included in the H.264 standard. However,
3 at no time before the H.264 standard was frozen did Nokia Corporation disclose that it had already
4 filed patent applications to which the Nokia Patents claim priority. This late disclosure breached
5 the contractual duty that Nokia Corporation and/or its successor-in-interest Nokia Oy owed under
6 the ITU's Patent Policy.

7 166. Nokia Corporation and/or Nokia Oy's repeated failure to disclose rights in the Nokia
8 Patents to the ITU—for years after the H.264 standard was frozen, if at all—is part of a pattern of
9 egregious behavior that prevented the ITU and other SSO members from fully evaluating the
10 relevant technologies when developing the H.264 standard. Upon information and belief, had the
11 Nokia Patents been timely disclosed during the standard-setting process, members would have
12 decided to standardize an alternative technology or left the relevant technology out of the
13 standard. The failure to disclose each of the Nokia Patents in a timely fashion distorted and
14 impaired the standardization process in an egregious way.

15 167. Nokia Corporation and Nokia Oy also unjustly benefitted from this late disclosure.
16 For example, Nokia Oy now claims that each of the Nokia Patents is essential to practice the
17 H.264 standard, even though Nokia Corporation and/or Nokia Oy deprived ITU members of the
18 ability to consider non-patented alternatives or to eliminate the functionality from the standard that
19 Nokia now claims is covered by the Nokia Patents, such that the accused functionality would not
20 have been included in the H.264 standard but for the lack of timely disclosure. Nokia Oy and/or
21 Nokia Corporation also have unjustly benefited from this late disclosure by demanding and
22 obtaining licensing revenue based on the allegedly standards-essential nature of the Nokia Patents,
23 by claiming enhanced value to investors and others through an inflated sense of its patent portfolio
24 (which includes the Nokia Patents), and by relying on the allegedly standard-essential nature of
25 the Nokia Patents to accuse Lenovo United States (and others) of infringing the Nokia Patents.
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- 1 C. Adjudge and decree that each of the Nokia Patents is unenforceable against
2 anyone practicing the H.264 standard or making, using, selling, offering for
3 sale, or importing products supporting the H.264 standard because Nokia
4 Corporation and/or Nokia Oy have engaged in unfair business acts and
5 practices in violation of California law;
6
7 D. Adjudge and decree that the Nokia Patents are unenforceable against anyone
8 practicing the H.264 standard or making, using, selling, offering of sale, or
9 importing products supporting the H.264 standard under the doctrine of
10 implied waiver;
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12 E. Enjoin enforcement of the Nokia Patents against anyone practicing the H.264
13 standard or making, using, selling, offering for sale, or importing products
14 supporting the H.264 standard;
15
16 F. Award Lenovo United States the amount of damages it proves at trial;
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18 G. Award Lenovo Unites States all reasonable attorney fees and costs, including
19 pursuant to the California Civil Procedure Code § 1021.5;
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21 H. Award taxable costs;
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23 I. Award interest; and
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25 J. Award Lenovo United States other and further relief as this Court deems just
26 and proper.
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JURY TRIAL DEMAND

Lenovo United States hereby demands a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues so triable.

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Dated: December 7, 2020

Respectfully submitted,

/s/ Joseph F. Haag

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