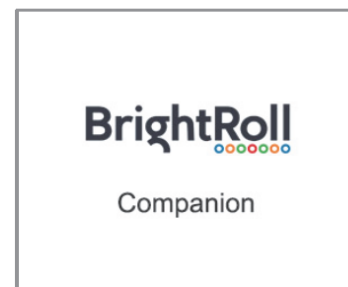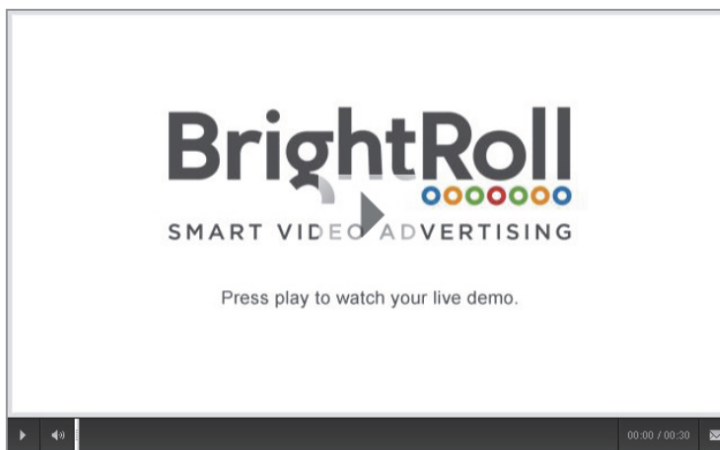1   (showing a banner associated with a video wherein the banner links to the advertiser's

2   website); http://www.brightroll.com/sites/default/files/BrightRoll-Ad-Specs-Preroll-

3   and-Companion-v7.7.pdf (showing a companion banner associated with a video

4   wherein the banner links to the advertiser's website):

21   c.   Yahoo's interactive video ads "automatically and directly electronically access[] said

22   online information associated with said link in response to a user initiated command."

23   '736 Patent at 10:49-51. Yahoo accomplishes this step when a user clicks on the

24   displayed video ad with his or her cursor—rendered as a hand—or clicks on the

25   companion banner ad, ad bar, or other visual indicator and he or she is taken to the

26   advertiser's website. This access is "direct" and "automatic" because all the user

27   needs to do is click on the ad, and the system accomplishes the rest, taking the user to

the website, on which the user has direct access to the online information. The

information is "associated" with the link because clicking on the interactive video ad

directs the user to the webpage found at that link. Links are provided with the video

programming and are decoded when received so as to provide a visual indication to

the user that additional information may be available, such that when the user

interacts with the link, he or she is presented with the website of the advertiser. For

example, clicking on an interactive video ad for Citi will take a user to Citi's webpage

via the link in that ad. *See, e.g.*, www.yahoo.com/tv (showing an interactive video ad

for Citi on yahoo.com); https://www.citi.com/credit-

cards/creditcards/citi.action?ID=DoubleCash&cmp=BAC~01~140701~BRANDING

~YAHOOLN~YAHOO~CAS&m=82ZC111111W (showing the Citi webpage to

which a user is taken if the user clicks on the Citi ad):

24.   Yahoo has indirectly infringed, and is indirectly infringing, at least Claim 8 of the '736

Patent in violation of 35 U.S.C. § 271 *et seq.*, by making, using, offering for sale, selling, and/or

importing in or into the United States without authority its interactive video ads. Yahoo induces its users

to infringe one or more claims of the '736 Patent at least by encouraging them to use its video streaming

services, which display interactive video ads, alone or in combination with Yahoo devices or the users'

devices, in an infringing manner. For example, Yahoo provides ad specifications detailing the

requirements that ad creators must adhere to in order to create compliant advertising for use on Yahoo's

domains. *See, e.g.*, https://adspecs.yahoo.com. Ad creators thus create ads compliant with Yahoo's

detailed ad specifications and Yahoo then provides its users with, for example, interactive video

advertisements with embedded web addresses developed in accordance with Yahoo's ad specifications

on its video streaming site at www.yahoo.com/tv. Yahoo has been aware of the '736 Patent since at least

December 22, 2015, by way of actual notice of infringement, and also by way of OpenTV's assertion

that Yahoo infringes that patent at the time of the filing of this Counterclaim. Yahoo's interactive video

ads are specially made and adapted to infringe the '736 Patent, are not staple articles of commerce, and

have no substantial non-infringing uses. Yahoo contributorily infringes one or more claims of the '736

Patent by offering for sale or selling its interactive video ads.

25.   Yahoo's infringement of the '736 Patent has been willful and deliberate. Yahoo has been

on notice of its infringement of the '736 Patent since at least December 22, 2015. However, Yahoo

continued to make, use, offer to sell, sell, and/or import its interactive video ads despite an objectively

high likelihood that its actions constituted infringement of the '736 Patent.

26.   As a result of Yahoo's acts of infringement, OpenTV has suffered damages in an amount

to be proved at trial.

COUNT 2: INFRINGEMENT OF THE '754 PATENT

27.   The allegations of paragraphs 1-16 of these Counterclaims are incorporated by reference

as though fully set forth herein.

28.   OpenTV owns by assignment the entire right, title, and interest in the '754 Patent.

1   29.   The '754 Patent was issued by the United States Patent and Trademark Office on July 6,

2   2004, and is entitled "System and Method for Interactive Gameplay Scheduled Based on Real-Life

3   Events." A true and correct copy of the '754 Patent is attached hereto as Exhibit 2.

4   30.   The '754 Patent is valid and enforceable under the laws of the United States.

5   31.   The technologies claimed in the '754 Patent were aimed at solving problems specific to

6   interactive electronic content delivery systems, such as the Internet, in particular, the problem of

7   providing ready connectivity and logic for personalization and customization, among geographically-

8   dispersed people seeking to participate in contests based on a large amount of real-time data. For

9   example, the '754 Patent teaches and claims "[a] method and system for providing on-line game

10   competition," '754 Patent, Abstract, and in an embodiment of the invention, the '754 Patent uses a web

11   browser and cookies in a "login and registration process," *id.* at 16:44-67, through which a "player

12   profile indicating a real-life participant preference" is created. *Id.* The methods and systems claimed in

13   the '754 Patent require complex computer hardware and software technologies to overcome the

14   problems described above, and do so by enabling multiple players, in different locations yet sharing

15   common interests, to compete in contests incorporating large amounts of data, *e.g.*, about real-life

16   events, and/or pre-existing player preferences. The technology claimed in the '754 Patent was not a

17   conventional business practice at the time of the invention. As the '754 Patent explains, "[m]any current

18   electronic video games are limited to two players competing against each other. This limits who can

19   participate." *Id.* at 1:25-27. "Additionally, many conventional games are limited by geography" and

20   "may also have a drawback of not establishing competition among a community of players with

21   common interests." *Id.* at 1:28-36.

22   32.   Yahoo has directly infringed, and is directly infringing, at least Claim 1 of the '754

23   Patent, in violation of 35 U.S.C. § 271 *et seq.*, by making, using, offering for sale, selling, and/or

24   importing in or into the United States without authority the fantasy gaming functionality employed by

25   Yahoo's fantasy sports gaming services available through yahoo.com and Yahoo branded mobile

26   applications available at least on Android or iOS devices and Yahoo's Connected TV platform.

27   Furthermore, to receive the benefit of the fantasy gaming functionality employed by Yahoo's fantasy

28   sports gaming services, users may be required to perform one or more actions, to the extent user actions

1   are considered to meet steps of the patented method, Yahoo maintains full control over the manner

2   and/or timing of the infringing steps.

3   33.   Upon information and belief, one or more of Yahoo's fantasy game functionalities, alone

4   or in combination with Yahoo mobile applications, meet all the elements of exemplary Claims 1-2.

5   a.   Contrary to Yahoo's position, exemplary Claims 1-2 do not require grouping players

6   onto teams based on "loyalty." *See* Compl. ¶ 65. Moreover, Claims 1-2 can be and are

7   practiced by Yahoo's fantasy game functionalities even if in the Yahoo fantasy games

8   "each player constructs her unique team by designating a plurality of real-life

9   athletes." *Id.* Yahoo asserts that Yahoo fantasy games do not practice the "identifying

10   a plurality of players, each player associated with one of a plurality of teams based on

11   a player profile indicating a real-life participant preference, each team relating to a

12   real-life participant in a scheduled event" or "displaying an assignment of a plurality

13   of players to a team for the one or more contests based on a player profile indicating a

14   real-life participant preference" limitations. *Id.* But each player of Yahoo fantasy

15   sports games, for example Yahoo Sports Fantasy Baseball, is associated with one of a

16   plurality of teams based on a player profile, as displayed, for example, by the Yahoo

17   Fantasy Baseball "Mock Draft":

18
19

20
21
22
23
24
25
26   http://baseball.fantasysports.yahoo.com/b1/mock_waiting?mlid=2373373&lobby=sta

27   nd (available after log-in with valid Yahoo ID). The "plurality of players" are

28   displayed in this example as "You," "BigDaddy," "Al," "Daniel," "Ryan," etc. Each

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

fastcase
Smarter legal research.