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7	Attorneys for Plaintiff GOOGLE INC.					
8	UNITED STATES DISTRICT COURT					
9	NORTHERN DISTRICT OF CALIFORNIA					
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11	GOOGLE INC.,	CASE NO. 3:13-cv-5933				
12	Plaintiff,	COMPLAINT FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT				
13 V. OF U.S. PATENT NOS. 5,83		OF U.S. PATENT NOS. 5,838,551; 6,037,937; 6,128,298; 6,333,973; 6,463,131;				
14	ROCKSTAR CONSORTIUM US LP and MOBILESTAR TECHNOLOGIES LLC,	6,765,591; AND 6,937,572 DEMAND FOR JURY TRIAL				
15	Defendants.					
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18	Plaintiff Google Inc. ("Google") seeks a declaration that Google does not directly or					
19	indirectly infringe United States Patent Nos. 5,83	38,551, 6,037,937, 6,128,298, 6,333,973,				
20	6,463,131, 6,765,591, and 6,937,572, as follows:					
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27 28 NATURE OF THE ACTION

1. This is an action for a declaratory judgment of non-infringement arising under the patent laws of the United States, Title 35 of the United States Code. Google requests this relief because Defendants Rockstar Consortium US LP and MobileStar Technologies LLC (collectively, "Rockstar") have filed seven lawsuits claiming that Google's customers infringe some or all of United States Patent Nos. 5,838,551, 6,037,937, 6,128,298, 6,333,973, 6,463,131, 6,765,591, and 6,937,572 (the "patents in suit") by making, using, selling, offering for sale, importing, exporting, supplying, or distributing "certain mobile communication devices having a version (or an adaption thereof) of [the] Android operating system" developed by Google. Rockstar's litigation campaign has placed a cloud on Google's Android platform; threatened Google's business and relationships with its customers and partners, as well as its sales of Nexus-branded Android devices; and created a justiciable controversy between Google and Rockstar.

THE PARTIES

- 2. Plaintiff Google Inc. ("Google") is a corporation organized and existing under the laws of the state of Delaware, with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California, 94043. Google's mission is to organize the world's information and make it universally accessible and useful. As part of that mission, Google produces Android, an open-source mobile platform that has been adopted by original equipment manufacturers ("OEMs") worldwide.
- 3. Defendant Rockstar Consortium US LP ("Rockstar Consortium") is a limited partnership organized and existing under the laws of the state of Delaware. Rockstar Consortium claims that its principal place of business is at Legacy Town Center 1, 7160 North Dallas Parkway, Suite No. 250, Plano, Texas, 75024, but the substantial majority of its employees, including senior management, are based in Ontario, Canada. Rockstar Consortium is admittedly a "patent licensing business" that produces no products, and instead exists solely to assert its patents. (http://www.ip-rockstar.com/about.)
- 4. Defendant MobileStar Technologies LLC ("MobileStar") is a limited liability corporation organized and existing under the laws of the state of Delaware, and also claims that its

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principal place of business is at Legacy Town Center 1, 7160 North Dallas Parkway,

Suite No. 250, Plano, Texas, 75024. MobileStar claims to be a subsidiary of Rockstar.

MobileStar was formed for litigation one day before Rockstar filed its lawsuits against Google's customers.

JURISDICTIONAL STATEMENT

- 5. This action arises under the Declaratory Judgment Act, 28 U.S.C. § 2201, and under the patent laws of the United States, 35 U.S.C. §§ 1-390.
- 6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1338(a), and 2201(a).
- 7. This Court has personal jurisdiction over Rockstar. Among other things, Rockstar has continuous and systematic business contacts with California. As Rockstar executives have explained to the media, once Rockstar identifies commercially successful products, it approaches the companies behind those products in person and through other means to seek licenses to Rockstar's patents. Rockstar conducts this business extensively throughout California, including through personnel located in the San Francisco Bay Area. Rockstar's CEO has publicly stated that Facebook (based in Menlo Park) and LinkedIn (based in Mountain View) infringe Rockstar's patents. (http://www.wired.com/wiredenterprise/2013/11/veschi/.) In fact, Rockstar's CEO has stated that it would be difficult to imagine that any tech companies—legions of which call California home—do not infringe Rockstar's patents. On information and belief, Rockstar's licensing and enforcement efforts in California have generated substantial revenues.
- 8. On information and belief, Rockstar's shareholders direct and participate in Rockstar's licensing and enforcement efforts against companies in California. For example, Apple Inc. ("Apple") is a large shareholder in closely-held Rockstar, and maintains a seat on Rockstar's board of directors. Rockstar's CEO has publicly stated that Rockstar maintains regular contact with its shareholders. Apple's headquarters are in Cupertino, California.
- 9. In addition, this Court has personal jurisdiction over Rockstar for another reason: Rockstar has purposefully directed into California its enforcement activities regarding the patents in suit. As part of this enforcement campaign, Rockstar contacted and met with a series of

California-based companies, accusing their devices that use Google's Android platform. On information and belief, Rockstar contacted and met with these California-based companies in order to discourage them from continuing to use Google's Android platform in their devices, and to interfere with Google's business relationships.

- 10. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c), because a substantial part of the events giving rise to Google's claim occurred in this district, and because Rockstar Consortium and MobileStar are subject to personal jurisdiction here.
- 11. An immediate, real, and justiciable controversy exists between Google and Rockstar as to whether Google is infringing or has infringed United States Patent Nos. 5,838,551 (the "'551 patent"), 6,037,937 (the "'937 patent"), 6,128,298 (the "'298 patent"), 6,333,973 (the "'973 patent"), 6,463,131 (the "'131 patent"), 6,765,591 (the "'591 patent"), and 6,937,572 (the "'572 patent").

INTRADISTRICT ASSIGNMENT

12. For purposes of intradistrict assignment under Civil Local Rules 3-2(c) and 3-5(b), this Intellectual Property Action will be assigned on a district-wide basis.

ROCKSTAR'S HISTORY AND BUSINESS

- 13. In June 2011, five of the world's largest technology companies—including Google competitors Apple, Research In Motion, and Microsoft—joined forces to obtain a portfolio of patents auctioned during the bankruptcy of Nortel Networks. Bankrolled by these companies, a manufactured entity called "Rockstar Bidco" placed the winning bid of \$4.5 billion. According to Apple's June 2011 Form 10-Q filed with the Securities and Exchange Commission, Apple contributed "approximately \$2.6 billion" of that sum.
- 14. Following its acquisition of Nortel's portfolio, Rockstar Bidco transferred ownership of thousands of patents to its owners, whom it calls the "founding licensees." Rockstar Bidco transferred ownership of over 1,000 patents to Apple alone. On information and belief, Rockstar Bidco was then reorganized into Rockstar Consortium.
- 15. Rockstar produces no products and practices no patents. Instead, Rockstar employs a staff of engineers in Ontario, Canada, who examine other companies' successful products to find

1	anything that Rockstar might use to demand and extract licenses to its patents under threat of		
2	litigation.		
3	16. Public reports confirm that in the first two months following its purchase of		
4	Nortel's portfolio, Rockstar sought licenses from as many as 100 companies. On information and		
5	belief, Rockstar has since sought licenses from many additional companies.		
6	ROCKSTAR'S CAMPAIGN AGAINST ANDROID		
7	17. Among the myriad companies ensnared in Rockstar's patent dragnet are customers		
8	and partners of Google who use the Android platform in their devices, including ASUS, HTC,		
9	Huawei, LG, Pantech, Samsung, and ZTE.		
10	18. On October 31, 2013, Rockstar brought patent infringement actions against ASUS,		
11	HTC, Huawei, LG, Pantech, Samsung, and ZTE in the Marshall Division of the United States		
12	District Court for the Eastern District of Texas. Rockstar Consortium US LP v. ASUSTek		
13	Computer, Inc., No. 2:13-cv-894; Rockstar Consortium US LP v. HTC Corp., No. 2:13-cv-895;		
14	Rockstar Consortium US LP v. Huawei Investment & Holding Co., No. 2:13-cv-896; Rockstar		
15	Consortium US LP v. LG Electronics Inc., No. 2:13-cv-898; Rockstar Consortium US LP v.		
16	Pantech Co., No. 2:13-cv-899; Rockstar Consortium US LP v. Samsung Electronics Co.,		
17	No. 2:13-cv-900; and <i>Rockstar Consortium US LP v. ZTE Corp.</i> , No. 2:13-cv-901 (collectively,		
18	the "Android OEM Actions" against the "Android OEM Defendants").		
19	19. In the Android OEM Actions, Rockstar alleges that each Android OEM Defendant		
20	infringes some or all of the '551, '937, '298, '973, '131, '591, and '572 patents by making, using,		
21	selling, offering for sale, importing, exporting, supplying, or distributing "certain mobile		
22	communication devices having a version (or an adaption thereof) of [the] Android operating		
23	system" developed by Google.		
24	20. In the Android OEM Actions, Rockstar accuses Android features including		
25	"Mobile Hotspot functionality" which is "designed to route data packets between wireless devices		
26	tethered to the Mobile Hotspot to nodes on a public network such as the Internet," allegedly		
27	infringing the '298 patent; "VPN management functionality," allegedly infringing the '591 patent;		
28	"Messaging and Notification functionality," allegedly infringing the '131 patent; a "navigable		

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graphical user interface ('navigable GUI') that permits a user to manipulate and control the contents of the display to maximize the use of display real estate," allegedly infringing the '937 patent; "integrated notification message center," allegedly infringing the '973 patent; and "Location Services functionality," allegedly infringing the '572 patent.

- 21. Rockstar further accuses devices incorporating Android of infringing the '551 patent by "includ[ing] at least one electronic package comprising a component that is located between an EMI shield and a ground member for performing shielding operations" where "[t]he EMI shield is incorporated into the electronic package, which is then mounted to a circuit board" in the accused devices.
- 22. As Rockstar's complaints admit, in the Android OEM Actions Rockstar has asserted its patents only against "certain mobile communication devices having a version (or an adaption thereof) of [the] Android operating system" developed by Google—although each of the Android OEM Defendants also makes other products that do not use Google's Android platform. Rockstar has further asserted patent infringement by the Nexus 7, a device offered for sale by Google and built by ASUS, one of the Android OEM Defendants.
- 23. On information and belief, Rockstar intends the Android OEM Actions to harm Google's Android platform and disrupt Google's relationships with the Android OEM Defendants. This is an open secret: industry media immediately observed that in filing the Android OEM Actions, Rockstar "launch[ed] an all-out patent attack on Google and Android." (http://arstechnica.com/tech-policy/2013/10/patent-war-goes-nuclear-microsoft-apple-ownedrockstar-sues-google/.)
- For all these reasons, an actual controversy exists between Google and Rockstar 24. regarding the alleged infringement of any claim of the '551, '937, '298, '973, '131, '591, and '572 patents.

GOOGLE DOES NOT INFRINGE THE PATENTS IN SUIT

25. Neither any version of Google's Android platform nor any of the Nexus 5, Nexus 7, or Nexus 10 devices sold by Google directly or indirectly infringe any claim of the '551, '937, '298, '973, '131, '591, and '572 patents.

26. To the best of Google's knowledge, no third party infringes any claim of the '551, '937, '298, '973, '131, '591, or '572 patents by using Nexus devices or Google's Android platform in other devices. Google has not caused, directed, requested, or facilitated any such infringement, much less with specific intent to do so. Neither the Nexus devices nor Google's Android platform are designed for use in any combination which infringes any claim of the '551, '937, '298, '973, '131, '591, or '572 patents. To the contrary, each is a product with substantial uses that do not infringe any claim of these patents.

FIRST COUNT

(Declaration of Non-Infringement of the '551 Patent)

- 27. Google restates and incorporates by reference the allegations in paragraphs 1 through 26 of this Complaint as if fully set forth herein.
- 28. Rockstar Consortium claims to own all rights, title, and interest in United States Patent No. 5,838,551 (the "'551 patent"). MobileStar claims to be the exclusive licensee of the '551 patent. A true and correct copy of the '551 patent is attached hereto as Exhibit A.
- 29. In the Android OEM Actions, Rockstar accuses Android OEM defendants ASUS, HTC, Huawei, LG, Pantech, and Samsung of infringing the '551 patent in that each "makes, uses, sells, offers for sale, imports, exports, supplies and/or distributes within the United States" devices incorporating Google's Android platform, which devices allegedly include "at least one electronic package comprising a component that is located between an EMI shield and a ground member for performing shielding operations" where "[t]he EMI shield is incorporated into the electronic package, which is then mounted to a circuit board" in the accused devices. In its complaint against ASUS, which manufactures the Nexus 7, Rockstar specifically accuses the Nexus 7, a device offered for sale by Google.
- 30. A substantial, immediate, and real controversy therefore exists between Google and Rockstar regarding whether the Android platform or any of these Nexus devices infringe or have infringed the '551 patent. A judicial declaration is necessary to determine the parties' respective rights regarding the '551 patent.

31. Google seeks a judgment declaring that Google's Android platform and the Nexus 5, Nexus 7, and Nexus 10 devices do not directly or indirectly infringe any claim of the '551 patent.

SECOND COUNT

(Declaration of Non-Infringement of the '937 Patent)

- 32. Google restates and incorporates by reference the allegations in paragraphs 1 through 31 of this Complaint as if fully set forth herein.
- 33. MobileStar claims to own all rights, title, and interest in United States Patent
 No. 6,037,937 (the "'937 patent"). Rockstar Consortium claims no interest in the '937 patent, yet
 seeks a judgment of infringement against the Android OEM Defendants in the Android OEM
 Actions. A true and correct copy of the '937 patent is attached hereto as Exhibit B.
- 34. In the Android OEM Actions, Rockstar accuses Android OEM Defendants ASUS, HTC, Huawei, LG, Pantech, Samsung, and ZTE of infringing the '937 patent in that each "makes, uses, sells, offers for sale, imports, exports, supplies and/or distributes within the United States" devices incorporating a version of Google's Android platform that supports a "navigable graphical user interface ('navigable GUI') that permits a user to manipulate and control the contents of the display to maximize the use of display real estate." In its complaint against ASUS, which manufactures the Nexus 7, Rockstar specifically accuses the Nexus 7, a device offered for sale by Google.
 - 35. The Nexus 5, Nexus 7, and Nexus 10 devices use Google's Android platform.
- 36. A substantial, immediate, and real controversy therefore exists between Google and Rockstar regarding whether the Android platform or any of these Nexus devices infringe or have infringed the '937 patent. A judicial declaration is necessary to determine the parties' respective rights regarding the '937 patent.
- 37. Google seeks a judgment declaring that Google's Android platform and the Nexus 5, Nexus 7, and Nexus 10 devices do not directly or indirectly infringe any claim of the '937 patent.

THIRD COUNT

Google restates and incorporates by reference the allegations in paragraphs 1

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(Declaration of Non-Infringement of the '298 Patent)

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through 37 of this Complaint as if fully set forth herein.

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39. Rockstar Consortium claims to own all rights, title, and interest in United States Patent No. 6,128,298 (the "'298 patent"). MobileStar claims to be the exclusive licensee of '298 patent. A true and correct copy of the '298 patent is attached hereto as Exhibit C.

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40. In the Android OEM Actions, Rockstar accuses Android OEM Defendants ASUS, HTC, Huawei, LG, Pantech, Samsung, and ZTE of infringing the '298 patent in that each "makes, uses, sells, offers for sale, imports, exports, supplies and/or distributes within the United States" devices incorporating a version of Google's Android platform that supports "Mobile Hotspot functionality [which] is designed to route data packets between wireless devices tethered to the Mobile Hotspot to nodes on a public network such as the Internet." In its complaint against ASUS, which manufactures the Nexus 7, Rockstar specifically accuses the Nexus 7, a device

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41. The Nexus 5, Nexus 7, and Nexus 10 devices use Google's Android platform.

17 18 42. A substantial, immediate, and real controversy therefore exists between Google and Rockstar regarding whether the Android platform or any of these Nexus devices infringe or have infringed the '298 patent. A judicial declaration is necessary to determine the parties' respective

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rights regarding the '298 patent.

offered for sale by Google.

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43. Google seeks a judgment declaring that Google's Android platform and the Nexus 5, Nexus 7, and Nexus 10 devices do not directly or indirectly infringe any claim of the '298 patent.

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FOURTH COUNT

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(Declaration of Non-Infringement of the '973 Patent)

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44. Google restates and incorporates by reference the allegations in paragraphs 1 through 43 of this Complaint as if fully set forth herein.

- 45. MobileStar claims to own all rights, title, and interest in United States Patent No. 6,333,973 (the "'973 patent"). Rockstar Consortium claims no interest in the '973 patent, yet seeks a judgment of infringement against the Android OEM Defendants in the Android OEM Actions. A true and correct copy of the '973 patent is attached hereto as Exhibit D.
- 46. In the Android OEM Actions, Rockstar accuses Android OEM Defendants ASUS, HTC, Huawei, LG, Pantech, Samsung, and ZTE of infringing the '973 patent in that each "makes, uses, sells, offers for sale, imports, exports, supplies and/or distributes within the United States" devices incorporating a version of Google's Android platform that supports an "integrated notification message center." In its complaint against ASUS, which manufactures the Nexus 7, Rockstar specifically accuses the Nexus 7, a device offered for sale by Google.
 - 47. The Nexus 5, Nexus 7, and Nexus 10 devices use Google's Android platform.
- 48. A substantial, immediate, and real controversy therefore exists between Google and Rockstar regarding whether the Android platform or any of these Nexus devices infringe or have infringed the '973 patent. A judicial declaration is necessary to determine the parties' respective rights regarding the '973 patent.
- 49. Google seeks a judgment declaring that Google's Android platform and the Nexus 5, Nexus 7, and Nexus 10 devices do not directly or indirectly infringe any claim of the '973 patent.

FIFTH COUNT

(Declaration of Non-Infringement of the '131 Patent)

- 50. Google restates and incorporates by reference the allegations in paragraphs 1 through 49 of this Complaint as if fully set forth herein.
- 51. MobileStar claims to own all rights, title, and interest in United States Patent
 No. 6,463,131 (the "'131 patent"). Rockstar Consortium claims no interest in the '131 patent, yet
 seeks a judgment of infringement against the Android OEM Defendants in the Android OEM
 Actions. A true and correct copy of the '131 patent is attached hereto as Exhibit E.
- 52. In the Android OEM Actions, Rockstar accuses Android OEM Defendants ASUS, HTC, Huawei, LG, Pantech, Samsung, and ZTE of infringing the '131 patent in that each "makes,

The Nexus 5, Nexus 7, and Nexus 10 devices use Google's Android platform.

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- 60. A substantial, immediate, and real controversy therefore exists between Google and Rockstar regarding whether the Android platform or any of these Nexus devices infringe or have infringed the '591 patent. A judicial declaration is necessary to determine the parties' respective rights regarding the '591 patent.
- 61. Google seeks a judgment declaring that Google's Android platform and the Nexus 5, Nexus 7, and Nexus 10 devices do not directly or indirectly infringe any claim of the '591 patent.

SEVENTH COUNT

(Declaration of Non-Infringement of the '572 Patent)

- 62. Google restates and incorporates by reference the allegations in paragraphs 1 through 61 of this Complaint as if fully set forth herein.
- 63. Rockstar Consortium claims to own all rights, title, and interest in United States Patent No. 6,937,572 (the "'572 patent"). MobileStar claims no interest in the '572 patent, yet seeks a judgment of infringement against the Android OEM Defendants in the Android OEM Actions. A true and correct copy of the '572 patent is attached hereto as Exhibit G.
- 64. In the Android OEM Actions, Rockstar accuses Android OEM Defendants ASUS, HTC, Huawei, LG, Pantech, Samsung, and ZTE of infringing the '572 patent in that each "makes, uses, sells, offers for sale, imports, exports, supplies and/or distributes within the United States" devices incorporating a version of Google's Android platform that supports "Location Services functionality." In its complaint against ASUS, which manufactures the Nexus 7, Rockstar specifically accuses the Nexus 7, a device offered for sale by Google.
 - 65. The Nexus 5, Nexus 7, and Nexus 10 devices use Google's Android platform.
- 66. A substantial, immediate, and real controversy therefore exists between Google and Rockstar regarding whether the Android platform or any of these Nexus devices infringe or have infringed the '572 patent. A judicial declaration is necessary to determine the parties' respective rights regarding the '572 patent.

1	67.	Google seeks a judgment declaring that Google's Android platform and the	
2	Nexus 5, Nexus 7, and Nexus 10 devices do not directly or indirectly infringe any claim of the		
3	'572 patent.		
4	PRAYER FOR RELIEF		
5	WHEREFORE, Google prays for judgment and relief as follows:		
6	A.	Declaring that Google's Android platform and the Nexus 5, Nexus 7, and Nexus 10	
7	do not infringe any of the '551, '937, '298, '973, '131, '591, or '572 patents;		
8	B.	Declaring that judgment be entered in favor of Google and against Rockstar	
9	Consortium and MobileStar on each of Google's claims;		
10	C.	Finding that this an exceptional case under 35 U.S.C. § 285;	
11	D.	Awarding Google its costs and attorneys' fees in connection with this action; and	
12	E.	Such further and additional relief as the Court deems just and proper.	
13		JURY DEMAND	
14	Google demands a jury trial on all issues and claims so triable.		
15	DATED: Dec	ember 23, 2013 Respectfully submitted,	
16		QUINN EMANUEL URQUHART & SULLIVAN, LLP	
17	By /s Matthew S. Warren Matthew S. Warren		
18		Attorneys for Google Inc.	
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General Information

Court United States District Court for the Northern District of California

Nature of Suit Property Rights: Patent

Docket Number 5:13-cv-05933