

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 9:17-80392-CIV-ROSENBERG

NISSIM CORP.,

Plaintiff,

vs.

WAL-MART STORES, INC.,

Defendant.

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**SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Nissim Corp., by and through its undersigned counsel, hereby sues Defendant Wal-Mart Stores, Inc., for patent infringement, and for its Second Amended Complaint alleges as follows:

**THE PARTIES**

1. Plaintiff Nissim Corp. (“Nissim”) is a corporation organized and existing under the laws of the state of Florida with its principal place of business in Boca Raton, Florida.

2. Defendant Wal-Mart Stores, Inc. (“Wal-Mart”) is a corporation organized and existing under the laws of the state of Delaware with its principal place of business in Bentonville, Arkansas.

**JURISDICTION AND VENUE**

3. This Court has federal question jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a) because Nissim seeks relief under the Patent Act, 35 U.S.C. § 271 *et seq.*, including remedies for infringement by Wal-Mart of United States Patents owned by Nissim.

4. Wal-Mart is subject to personal jurisdiction in this state under Florida Statutes § 48.193 because Wal-Mart has transacted business in this state, contracted to supply services or products in this state, and caused tortious injury in this state.

5. Venue is proper pursuant to 28 U.S.C. § 1400(b) because Wal-Mart committed acts of patent infringement in this district and has a regular and established place of business in this district.

### **THE NISSIM PATENTS**

6. Nissim is the owner of an extraordinarily valuable portfolio of United States Patents (collectively the “Nissim Patents”). The Nissim Patents cover, among other things, multiple features that are required by certain industry adopted specifications known as the DVD Specifications for Read Only Disc Part 3 Video Specifications, Version 1.1, December 1997 (the “DVD Specifications”).

7. Max Abecassis, the sole owner of Nissim, is the sole inventor of the Nissim Patents.

8. The Nissim Patents have been recognized by virtually the entire consumer electronics industry as essential to the required implementation of the DVD Specifications in all devices capable of playing DVD-Video discs, including stand-alone DVD players, Blu-ray players and DVD or Blu-ray enabled computers. Notably, every member of the DVD Consortium that formulated the DVD Specifications – Hitachi, Matsushita, Mitsubishi, Sony, Toshiba, Philips, Pioneer, Thomson, JVC, and Time Warner – is a Nissim licensee. Nissim’s licensees also include such major companies as Apple, Acer, Bose, Dell, Disney, Funai, Hewlett-Packard, IBM, Lenovo, LG, Microsoft, Samsung, Sharp, Universal, and numerous others.

9. All DVD-Videos and devices capable of playing DVD-Videos (“DVD-Devices”) which bear the DVD logo must operate in accordance with the requirements of the DVD Specifications. The DVD Specifications must be followed to ensure the compatibility of all DVD-Videos with all DVD-Devices.

10. Similarly, all Blu-Ray devices capable of playing Blu-Ray Videos (“BD-Videos”) which bear the BD logo must operate in accordance with the requirements of the DVD Specifications. BD-Devices are backwards compatible with the DVD Specifications, and thereby allow the playing of DVD-Videos. As a result, all Blu-Ray Devices are also DVD-Devices.

11. Wal-Mart made no contribution to the DVD Specifications, but Wal-Mart has sold numerous DVD-Devices.

12. There are several essential capabilities contained within all DVD-Videos, BD-Videos, and DVD-Devices (which include BD-Devices) that infringe claims of the Nissim Patents. Among these capabilities are Seamless Play and User Operation Control.

13. Seamless Play capabilities enable, in response to a user’s content preferences, the non-intermittent playback of each of the different paths within a video that has multiple language credits, parental levels and/or multi-camera angles. The implementation of Seamless Play is demonstrated in DVD-Videos that offer different versions within a video, such as both “R” and “PG” rated versions, or both theatrical release and director’s cut versions. The DVD Specifications provide for the use of segment information carried by a DVD-Video that is implemented by a DVD-Device to play, from within the same video, more than one version of a video. These Seamless Play capabilities of the DVD Specifications are incorporated into all

DVD-Devices and are covered by the Nissim Patents. The DVD Specifications make Seamless Play a mandatory capability of all DVD-Devices.

14. User Operation Control capabilities enable the operation or prohibition of certain video playback controls, e.g., fast forward or skip, during the playback of a segment of a video. User Operation Control utilizes segment codes to prohibit users from, for example, fast-forwarding through certain segments, such as menu screen, advertising and the FBI copyright warning. The DVD Specifications require every DVD-Device to enable User Operation Control.

15. The last remaining of the Nissim Patents asserted herein expired on December 31, 2013. Pursuant to 35 U.S.C. § 286, this action seeks recovery for damages accruing prior to the patents' respective expiration dates.

16. On various occasions prior to the expiration of the Nissim Patents, Nissim contacted Wal-Mart, informing it of the Nissim Patents and of the sale of a number of unlicensed and infringing DVD-Devices in Wal-Mart stores. Nissim specifically identified numerous brands supplied to Wal-Mart by unlicensed manufacturers and/or distributors. Nissim also offered Wal-Mart a license agreement at the industry standard royalty rate of \$0.25 per device. Despite Nissim's notices, however, Wal-Mart continued to sell and offer for sale many of the unlicensed and infringing DVD-Devices, and failed to execute a license agreement with Nissim. Attached as Composite Exhibit 1 hereto are true and correct copies of pre-suit communications between Nissim and Wal-Mart concerning Wal-Mart's sale of unlicensed and infringing DVD-Devices.

**COUNT I – INFRINGEMENT OF U.S. PATENT 5,434,678**

17. Nissim repeats and realleges each and all of the allegations contained in paragraphs 1 through 16 above as though fully set forth herein.

18. Nissim is the owner of United States Patent 5,434,678 (“the ‘678 patent”), entitled “Seamless Transmission Of Non-Sequential Video Segments,” which was duly and lawfully issued on July 18, 1995 by the United States Patent and Trademark Office. A true and correct copy of the ‘678 patent is attached hereto as Exhibit 2. The ‘678 patent is enforceable as to infringement occurring prior to its expiration.

*Direct Infringement under § 271(a)*

19. Wal-Mart has directly infringed, literally or under the doctrine of equivalents, claims 10-15 of the ‘678 patent, by selling and offering for sale unlicensed DVD-Devices from the following suppliers: AMG, Cisnet, Curtis, CyberpowerPC, Digitrex, IBUYPOWER, IC Power, Microtel, MSi, Viore, and ZT. A preliminary claim chart describing the infringement of representative claims of the ‘678 patent by DVD-Devices is attached hereto as Exhibit 3.

20. Wal-Mart’s acts of direct infringement have been willful, intentional, and with full notice and knowledge of Nissim’s rights under the ‘678 patent.

*Indirect Infringement under § 271(b) and (c)*

21. End users of DVD-Devices directly infringe claims 1-3, 7-8, and 18 of the ‘678 patent by using unlicensed DVD-Devices to play DVD-Videos and/or BD-Videos having Seamless Play capability within the United States.

22. On information and belief, with knowledge of the ‘678 patent and specific intent to encourage the end-user’s direct infringement, Wal-Mart actively induced said direct

infringement by end users by providing unlicensed DVD-Devices for use with DVD-Videos and/or BD-Videos having Seamless Play capabilities in the United States. Accordingly, Wal-Mart is liable for induced infringement under 35 U.S.C. § 271(b).

23. On information and belief, Wal-Mart knew unlicensed DVD-Devices were compliant with the DVD Specifications, including having Seamless Play capabilities. Further, on information and belief, Wal-Mart knew unlicensed DVD-Devices were specially made to be used with DVD-Videos and/or BD-Videos in compliance with the DVD Specifications, including DVD-Videos and/or BD-Videos having Seamless Play capabilities.

24. On information and belief, Wal-Mart knew unlicensed DVD-Devices are a material part of claims 1-3, 7-8, and 18 of the '678 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

25. By selling unlicensed DVD-Devices, and on information and belief knowing the same to be especially made or especially adapted for use by end users in the direct infringement of claims 1-3, 7-8, and 18 of the '678 patent, Wal-Mart is liable for contributory infringement under 35 U.S.C. § 271(c).

26. Wal-Mart's acts of indirect infringement have been willful, intentional, and with full notice and knowledge of Nissim's rights under the '678 patent.

27. Nissim has been damaged by Wal-Mart's direct and indirect infringement of the '678 patent in an amount to be proven at trial.

**COUNT II – INFRINGEMENT OF U.S. PATENT 5,589,945**

28. Nissim repeats and realleges each and all of the allegations contained in paragraphs 1 through 16 above as though fully set forth herein.

29. Nissim is the owner of United States Patent 5,589,945 (“the ‘945 patent”), entitled “Computer-Themed Playing System,” which was duly and lawfully issued on December 31, 1996 by the United States Patent and Trademark Office. A true and correct copy of the ‘945 patent is attached hereto as Exhibit 4. The ‘945 patent is enforceable as to infringement occurring prior to its expiration.

*Direct Infringement under § 271(a)*

30. Wal-Mart has directly infringed, literally or under the doctrine of equivalents, claims 11-12 of the ‘945 patent, by selling and offering for sale unlicensed DVD-Devices including but not limited to unlicensed DVD-Devices from the following suppliers: AMG, Cisnet, Curtis, CyberpowerPC, Digitrex, IBUYPOWER, IC Power, Microtel, MSi, Viore, and ZT. A preliminary claim chart describing the infringement of representative claims of the ‘945 patent by DVD-Devices is attached hereto as Exhibit 5.

31. Wal-Mart’s acts of direct infringement have been willful, intentional, and with full notice and knowledge of Nissim’s rights under the ‘945 patent.

*Indirect Infringement under § 271(b) and (c)*

32. End users of DVD-Devices directly infringed claims 5-10 of the ‘945 patent by using unlicensed DVD-Devices to play DVD-Videos and/or BD-Videos having Seamless Play capability within the United States.

33. On information and belief, with knowledge of the ‘945 patent and specific intent to encourage the end-user’s direct infringement, Wal-Mart actively induced said direct infringement by end users by providing unlicensed DVD-Devices for use with DVD-Videos

and/or BD-Videos having Seamless Play capabilities in the United States. Accordingly, Wal-Mart is liable for induced infringement under 35 U.S.C. § 271(b).

34. On information and belief, Wal-Mart knew unlicensed DVD-Devices were compliant with the DVD Specifications, including having Seamless Play capabilities. Further, on information and belief, Wal-Mart knew unlicensed DVD-Devices were specially made to be used with DVD-Videos and/or BD-Videos in compliance with the DVD Specifications, including DVD-Videos and/or BD-Videos having Seamless Play capabilities.

35. On information and belief, Wal-Mart knew unlicensed DVD-Devices are a material part of claims 5-10 of the '945 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

36. By selling unlicensed DVD-Devices, and on information and belief knowing the same to be especially made or especially adapted for use by end users in said direct infringement of claims 5-10 of the '945 patent, Wal-Mart is liable for contributory infringement under 35 U.S.C. § 271(c).

37. Wal-Mart's acts of indirect infringement have been willful, intentional, and with full notice and knowledge of Nissim's rights under the '945 patent.

38. Nissim has been damaged by Wal-Mart's direct and indirect infringement of the '945 patent in an amount to be proven at trial.

### **COUNT III– INFRINGEMENT OF U.S. PATENT 5,913,013**

39. Nissim repeats and realleges each and all of the allegations contained in paragraphs 1 through 16 above as though fully set forth herein.



40. Nissim is the owner of United States Patent 5,913,013 (“the ‘013 patent”), entitled “Seamless Transmission Of Non-Sequential Video Segments,” which was duly and lawfully issued on June 15, 1999 by the United States Patent and Trademark Office. A true and correct copy of the ‘013 patent is attached hereto as Exhibit 6. The ‘013 patent is enforceable as to infringement occurring prior to its expiration.

*Direct Infringement under § 271(a)*

41. Wal-Mart has directly infringed, literally or under the doctrine of equivalents, claims 1-4, 13-16, 18, 21-23 of the ‘013 patent, by selling and offering for sale unlicensed DVD-Devices, including but not limited to unlicensed DVD-Devices from the following suppliers: AMG, Cisnet, Curtis, CyberpowerPC, Digitrex, IBUYPOWER, IC Power, Microtel, MSi, Viore, and ZT. A preliminary claim chart describing the infringement of representative claims of the ‘013 patent by DVD-Devices is attached hereto as Exhibit 7.

42. Wal-Mart’s acts of direct infringement have been willful, intentional, and with full notice and knowledge of Nissim’s rights under the ‘013 patent.

*Indirect Infringement under § 271(b) and (c)*

43. End users of DVD-Devices directly infringed claims 7-10 of the ‘013 patent by using unlicensed DVD-Devices to play DVD-Videos and/or BD-Videos having Seamless Play capability within the United States.

44. On information and belief, with knowledge of the ‘013 patent and specific intent to encourage the end-user’s direct infringement, Wal-Mart actively induced said direct infringement by end users by providing unlicensed DVD-Devices for use with DVD-Videos

and/or BD-Videos having Seamless Play capabilities in the United States. Accordingly, Wal-Mart is liable for induced infringement under 35 U.S.C. § 271(b).

45. On information and belief, Wal-Mart knew unlicensed DVD-Devices were compliant with the DVD Specifications, including having Seamless Play capabilities. Further, on information and belief, Wal-Mart knew unlicensed DVD-Devices were specially made to be used with DVD-Videos and/or BD-Videos in compliance with the DVD Specifications, including DVD-Videos and/or BD-Videos having Seamless Play capabilities.

46. On information and belief, Wal-Mart knew unlicensed DVD-Devices are a material part of claims 7-10 of the '013 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

47. By selling unlicensed DVD-Devices, and on information and belief knowing the same to be especially made or especially adapted for use by end users in said direct infringement of claims 7-10 of the '013 patent, Wal-Mart is liable for contributory infringement under 35 U.S.C. § 271(c).

48. Wal-Mart's acts of indirect infringement have been willful, intentional, and with full notice and knowledge of Nissim's rights under the '013 patent.

49. Nissim has been damaged by Wal-Mart's direct and indirect infringement of the '013 patent in an amount to be proven at trial.

#### **COUNT IV – INFRINGEMENT OF U.S. PATENT 6,151,444**

50. Nissim repeats and realleges each and all of the allegations contained in paragraphs 1 through 16 above as though fully set forth herein.

51. Nissim is the owner of United States Patent 6,151,444 (“the ‘444 patent”), entitled “Motion Picture Including Within A Duplication Of Frames,” which was duly and lawfully issued on November 21, 2000 by the United States Patent and Trademark Office. The ‘444 patent issued from an application filed with the United States Patent and Trademark Office on June 30, 1998, and claims priority from a parent application which was originally filed on January 11, 1993 and which issued as United States Patent 5,434,678. The ‘444 patent is now, and has been at all times since its date of issue, valid. A true and correct copy of the ‘444 patent is attached hereto as Exhibit 8. The ‘444 patent is enforceable as to infringement occurring prior to its expiration.

*Direct Infringement Under § 271(a)*

52. Wal-Mart has directly infringed, literally or under the doctrine of equivalents, claims 17, 19, 21, and 23-24 of the ‘444 patent, by selling and offering for sale unlicensed DVD-Devices, including but not limited to unlicensed DVD-Devices from the following suppliers: AMG, Cisnet, Curtis, CyberpowerPC, Digitrex, IBUYPOWER, IC Power, Microtel, MSi, Viore, and ZT. A preliminary claim chart describing the infringement of representative claims of the ‘444 patent by DVD-Devices is attached hereto as Exhibit 9.

53. Wal-Mart’s acts of direct infringement have been willful, intentional, and with full notice and knowledge of Nissim’s rights under the ‘444 patent.

*Indirect Infringement under § 271(b) and (c)*

54. End users of DVD-Devices directly infringed claims 9, 11, 13, and 15-16 of the ‘444 patent by using unlicensed DVD-Devices to play DVD-Videos and/or BD-Videos having Seamless Play capabilities within the United States.

55. On information and belief, with knowledge of the '444 patent and specific intent to encourage the end-user's direct infringement, Wal-Mart actively induced said direct infringement by end users by providing unlicensed DVD-Devices for use with DVD-Videos and/or BD-Videos having Seamless Play capabilities in the United States. Accordingly, Wal-Mart is liable for induced infringement under 35 U.S.C. § 271(b).

56. On information and belief, Wal-Mart knew unlicensed DVD-Devices were compliant with the DVD Specifications, including having Seamless Play capabilities. Further, on information and belief, Wal-Mart knew unlicensed DVD-Devices were specially made to be used with DVD-Videos and/or BD-Videos in compliance with the DVD Specifications, including DVD-Videos and/or BD-Videos having Seamless Play capabilities.

57. On information and belief, Wal-Mart knew unlicensed DVD-Devices are a material part of claims 9, 11, 13, and 15-16 of the '444 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

58. By selling and offering to sell DVD-Devices, and on information and belief knowing the same to be especially made or especially adapted for use by end users in said direct infringement of claims 9, 11, 13, and 15-16 of the '444 patent, Wal-Mart is liable for contributory infringement under 35 U.S.C. § 271(c).

59. Wal-Mart's acts of indirect infringement have been willful, intentional, and with full notice and knowledge of Nissim's rights under the '444 patent.

60. Nissim has been damaged by Wal-Mart's direct and indirect infringement of the '444 patent in an amount to be proven at trial.

**COUNT V – INFRINGEMENT OF U.S. PATENT 6,208,805**

61. Nissim repeats and realleges each and all of the allegations contained in paragraphs 1 through 16 above as though fully set forth herein.

62. Nissim is the owner of United States Patent 6,208,805 (“the ‘805 patent”), entitled “Inhibiting A Control Function From Interfering With A Playing Of A Video,” which was duly and lawfully issued on March 27, 2001 by the United States Patent and Trademark Office. A true and correct copy of the ‘805 patent is attached hereto as Exhibit 10. The ‘805 patent is enforceable as to infringement occurring prior to its expiration.

*Direct Infringement Under § 271(a)*

63. Wal-Mart has directly literally or under the doctrine of equivalents, claims 1-6 of the ‘805 patent, by selling and offering for sale unlicensed DVD-Devices, including but not limited to unlicensed DVD-Devices from the following suppliers: AMG, Cisnet, Curtis, CyberpowerPC, Digitrex, IBUYPOWER, IC Power, Microtel, MSi, Viore, and ZT. A preliminary claim chart describing the infringement of representative claims of the ‘805 patent by DVD-Devices is attached hereto as Exhibit 11.

64. Wal-Mart’s acts of direct infringement have been willful, intentional, and with full notice and knowledge of Nissim’s rights under the ‘805 patent.

*Indirect Infringement under § 271(b) and (c)*

65. End users of DVD-Devices directly infringed claims 7-9 of the ‘805 patent by using unlicensed DVD-Devices to play DVD-Videos and/or BD-Videos having Seamless Play and User Operation Control capabilities.

66. On information and belief, with knowledge of the '805 patent and specific intent to encourage the end-user's direct infringement, Wal-Mart actively induced said direct infringement by end users by providing unlicensed DVD-Devices for use with DVD-Videos and/or BD-Videos having Seamless Play and User Operation Control capabilities in the United States. Accordingly, Wal-Mart is liable for induced infringement under 35 U.S.C. § 271(b).

67. On information and belief, Wal-Mart knew unlicensed DVD-Devices were compliant with the DVD Specifications, including having Seamless Play and User Operation Control capabilities. Further, on information and belief, Wal-Mart knew unlicensed DVD-Devices were specially made to be used with DVD-Videos and/or BD-Videos in compliance with the DVD Specifications, including DVD-Videos and/or BD-Videos having Seamless Play and User Operation Control capabilities.

68. On information and belief, Wal-Mart knew unlicensed DVD-Devices are a material part of claims 7-9 of the '805 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

69. By selling unlicensed DVD-Devices, and on information and belief knowing the same to be especially made or especially adapted for use by end users in said direct infringement of claims 7-9 of the '805 patent, Wal-Mart is liable for contributory infringement under 35 U.S.C. § 271(c).

70. Wal-Mart's acts of indirect infringement have been willful, intentional, and with full notice and knowledge of Nissim's rights under the '805 patent.

71. Nissim has been damaged by Wal-Mart's direct and indirect infringement of the '805 patent in an amount to be proven at trial.

**COUNT VI – INFRINGEMENT OF U.S. PATENT 6,463,207**

72. Nissim repeats and realleges each and all of the allegations contained in paragraphs 1 through 16 above as though fully set forth herein.

73. Nissim is the owner of United States Patent 6,643,207 (“the ‘207 patent”), entitled “Playing A Variable-Content-Video Having A User Interface,” which was duly and lawfully issued on October 8, 2002 by the United States Patent and Trademark Office. A true and correct copy of the ‘207 patent is attached hereto as Exhibit 12. The ‘207 patent is enforceable as to infringement occurring prior to its expiration.

*Direct Infringement Under § 271(a)*

74. Wal-Mart has directly infringed, literally or under the doctrine of equivalents, claims 1, 4, 8, 9, and 21 of the ‘207 patent, by selling and offering for sale unlicensed DVD-Devices including but not limited to unlicensed DVD-Devices from the following suppliers: AMG, Cisnet, Curtis, CyberpowerPC, Digitrex, IBUYPOWER, IC Power, Microtel, MSi, Viore, and ZT. A preliminary claim chart describing the infringement of representative claims of the ‘207 patent by DVD-Devices is attached hereto as Exhibit 13.

75. Wal-Mart’s acts of direct infringement have been willful, intentional, and with full notice and knowledge of Nissim’s rights under the ‘207 patent.

*Indirect Infringement under § 271(b) and (c)*

76. End users of DVD-Devices directly infringed claims 14 and 16 of the ‘207 patent by using unlicensed DVD-Devices to play DVD-Videos and/or BD-Videos having Seamless Play capabilities within the United States.

77. On information and belief, with knowledge of the '207 patent and specific intent to encourage the end-user's direct infringement, Wal-Mart actively induced said direct infringement by end users by providing unlicensed DVD-Devices for use with DVD-Videos and/or BD-Videos having Seamless Play capabilities in the United States. Accordingly, Wal-Mart is liable for induced infringement under 35 U.S.C. § 271(b).

78. On information and belief, Wal-Mart knew unlicensed DVD-Devices were compliant with the DVD Specifications, including having Seamless Play capabilities. Further, on information and belief, Wal-Mart knew unlicensed DVD-Devices were specially made to be used with DVD-Videos and/or BD-Videos in compliance with the DVD Specifications, including DVD-Videos and/or BD-Videos having Seamless Play capabilities.

79. On information and belief, Wal-Mart knew unlicensed DVD-Devices are a material part of claims 14 and 16 of the '207 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

80. By selling unlicensed DVD-Devices, and on information and belief knowing the same to be especially made or especially adapted for use by end users in said direct infringement of claims 14 and 16 of the '207 patent, Wal-Mart is liable for contributory infringement under 35 U.S.C. § 271(c).

81. Wal-Mart's acts of indirect infringement have been willful, intentional, and with full notice and knowledge of Nissim's rights under the '207 patent

82. Nissim has been damaged by Wal-Mart's direct and indirect infringement of the '207 patent in an amount to be proven at trial.



**PRAYER FOR RELIEF**

WHEREFORE, Nissim prays:

- A. That the Court finds Wal-Mart liable for infringement of the asserted Nissim Patents.
- B. That the Court awards Nissim compensatory damages against Wal-Mart pursuant to 35 U.S.C. § 284, in the form of a reasonably royalty.
- C. That based on the willful nature of the infringement by Wal-Mart, the Court enters judgment three (3) times such compensatory amount pursuant to 35 U.S.C. § 284.
- D. That the Court finds this case exceptional within the meaning of 35 U.S.C. § 285 and awards Nissim its reasonable attorneys' fees incurred in this action.
- E. That the Court awards Nissim its taxable costs, disbursements, and pre-judgment and post-judgment interest.
- F. For such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Nissim demands trial by jury on all issues so triable.

Dated: October 2, 2017

Respectfully submitted,

s/ John C. Carey  
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*Counsel for Plaintiff Nissim Corp.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by  
CM/ECF on October 2, 2017 on all counsel of record on the Service List below:

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