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 SYMANTEC CORPORATION  
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9  
 10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA

12 SYMANTEC CORPORATION,

13 Plaintiff,

14 v.

15 RPOST HOLDINGS INC., RPOST  
 16 COMMUNICATIONS LIMITED, RPOST  
 17 INTERNATIONAL LIMITED and  
 RMAIL LIMITED,

18 Defendants.  
 19

Case No.: 3:14-CV-00238

**FIRST AMENDED COMPLAINT FOR  
 DECLARATORY JUDGMENT AND  
 PATENT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

20 Plaintiff Symantec Corporation (“Symantec”) brings this First Amended Complaint  
 21 against Defendants RPost Holdings, Inc. (“RPost Holdings”), RPost Communications Limited  
 22 (“RPost Communications”), RPost International Limited (“RPost International”), and RMail  
 23 Limited (“RMail”) (collectively, “RPost” or “Defendants”). Symantec Corporation filed its  
 24 Original Complaint on January 15, 2014. D.I. 1. All defendants have been served. D.I. 17, 23,  
 25 24 and 25. No defendant has filed a responsive pleading or a motion under Rule 12(b), (e) or (f).  
 26 Accordingly, Symantec submits this First Amended Complaint under Fed. R. Civ. P. 15(a) and  
 27 avers as follows:  
 28

**NATURE OF ACTION**

1  
2 1. This action is based on the patent laws of the United States, Title 35 of the United  
3 States Code. Defendants have asserted rights under U.S. Patent Nos. 8,504,628, 8,209,389,  
4 8468,199, 8,224,913 and 7,966,372 (collectively the “patents-in-suit”) based on certain ongoing  
5 activity by Symantec, and Symantec contends that it has the right to engage in this activity  
6 without license. Symantec thus seeks a declaration that it does not infringe the patents-in-suit,  
7 that the patents-in-suit are invalid, and/or that any alleged use of the patented inventions by  
8 Symantec have been released pursuant to the parties’ October 25, 2011 Stipulation of Settlement  
9 of Claims Involving Defendants Symantec Corporation, Henri Isenberg and Charles Breed in  
10 *Kenneth Barton v. RPost International Limited, et al.*, Case No. YC061581, Superior Court of  
11 California, County of Los Angeles-Southwest District. This is also an action for patent  
12 infringement of U.S. Patent No.

**THE PARTIES**

13  
14 2. Symantec is a Delaware corporation with headquarters located at 350 Ellis Street,  
15 Mountain View, California.

16 3. On information and belief, Defendant RPost Holdings is a Delaware corporation  
17 with headquarters located at 6033 W. Century Blvd., Suite 1278, Los Angeles CA 90045-6422.

18 4. On information and belief, Defendant RPost Communications is a corporation  
19 organized under the laws of the Nation of Bermuda.

20 5. On information and belief, Defendant RPost International is a corporation  
21 organized under the laws of the Nation of Bermuda.

22 6. On information and belief, Defendant RMail is a corporation organized under the  
23 laws of the Nation of Bermuda.

**SUBJECT MATTER JURISDICTION**

24 7. This is a civil action regarding allegations of patent infringement arising under the  
25 patent laws of the United States, Title 35 of the United States Code. This Court has subject  
26 matter jurisdiction over the infringement claims set forth below based on applicable statutory  
27 provisions, including 28 U.S.C. §§ 1331 and 1338(a). Symantec seeks declaratory relief under  
28

1 the Declaratory Judgment Act. Thus, the court has subject matter jurisdiction over this action  
 2 pursuant to 28 U.S.C. §§ 1331, 1338, 2201, and 2202. This action includes a claim for a  
 3 declaratory judgment of patent noninfringement and invalidity arising under the patent laws of the  
 4 United States, Title 35 of the United States Code.

5 8. An actual controversy exists between Symantec and RPost by virtue of RPost's  
 6 assertion of rights under the patents-in-suit based on certain ongoing activity by Symantec. In  
 7 particular, RPost has asserted that the patents-in-suit relate to email security and specifically  
 8 identified "Symantec's Email Security.cloud (Messagelabs), Encryption Management Server,  
 9 Gateway Encryption Server, Email Policy Based Encryption, Data Leak Prevention (DLP /  
 10 Vontu) and Email Security Appliance" in asserting rights under the patents-in-suit.

11 9. Symantec contends that it has a right to engage in making, using, offering to sell,  
 12 and selling its products, including its email security products, without license from RPost.

### 13 **PERSONAL JURISDICTION AND VENUE**

14 10. The Court has personal jurisdiction over RPost because RPost has conducted  
 15 substantial business in (and has substantial contact with) this District. Among other things, RPost  
 16 has sent letters to Symantec in this District accusing it of infringing the patents-in-suit and  
 17 offering to "develop[] a meaningful integrated product offering" with Symantec. Symantec, who  
 18 RPost accuses of infringing the patents-in-suit, resides in this District. On information and belief,  
 19 RPost also has accused others in this District of infringement, and negotiated and entered into  
 20 agreements with others who reside in this District. For example, on information and belief, on  
 21 February 17, 2006, RPost International Limited and RPost US, Inc., corporate entities closely  
 22 affiliated with RPost, filed a complaint in this District seeking declaratory judgment against  
 23 Authentix – Authentication Technologies Ltd. and Propat International Corporation that U.S.  
 24 Patent No. 6,182,219 was not infringed and/or was invalid. RPost has informed Symantec that it  
 25 is now the owner of U.S. Patent No. 6,182,219 and has recommended that Symantec review that  
 26 patent. On information and belief, RPost and/or its affiliated companies also market, offer for  
 27 sale and sell products in this District. *See, e.g.,* www.rpost.com. For example, RPost lists

1 Sendmail as one of its Technology Partners. *See* [www.rpost.com/partners/technology-partners](http://www.rpost.com/partners/technology-partners).  
 2 Sendmail is headquartered in Sunnyvale, California, which is located in this District. *See*  
 3 [www.sendmail.com/sm/contact/](http://www.sendmail.com/sm/contact/). On information and belief, RPost and/or its affiliated  
 4 companies have transacted business in this District, have derived substantial revenue from goods  
 5 and services provided to individuals in this District and have committed, contributed to and/or  
 6 induced acts of patent infringement in this District

7 11. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 in that a  
 8 substantial part of the acts giving rise to the claim occurred in this judicial district, and because  
 9 RPost is subject to personal jurisdiction in this judicial district.

#### 10 **INTRADISTRICT ASSIGNMENT**

11 12. Pursuant to Civil L.R. 3-2(c), this action is to be assigned on a district-wide basis  
 12 because it is an intellectual property action.

#### 13 **FACTUAL BACKGROUND** 14 **DECLARATORY JUDGMENT**

15 13. On August 6, 2013, the United States Patent and Trademark Office (“PTO”) issued  
 16 the ’628 patent entitled “System And Method For Verifying Delivery And Integrity Of Electronic  
 17 Messages.” The ’628 patent states on its face that it was filed on June 4, 2010. The ’628 patent  
 18 states on its face that it was assigned to RPost Communications. A true and correct copy of the  
 19 ’628 patent is attached to this Complaint as Exhibit A.

20 14. On June 26, 2012, the PTO issued the ’389 patent entitled “System And Method  
 21 For Verifying Delivery And Integrity Of Electronic Messages.” The ’389 patent states on its face  
 22 that it was filed on December 29, 2010. The ’389 patent states on its face that it was assigned to  
 23 RPost Communications. A true and correct copy of the ’389 patent is attached to this Complaint  
 24 as Exhibit B.

25 15. On June 18, 2013, the PTO issued the ’199 patent entitled “System And Method  
 26 For Verifying Delivery And Integrity Of Electronic Messages.” The ’199 patent states on its face  
 27 that it was filed on June 25, 2012 and that it is related to a provisional application filed on  
 28 December 17, 1999. The ’199 patent states on its face that it was assigned to RPost International.

1 A true and correct copy of the '199 patent is attached to this Complaint as Exhibit C.

2 16. On July 17, 2012, the PTO issued the '913 patent entitled "System And Method  
3 For Verifying Delivery And Integrity Of Electronic Messages." The '913 patent states on its face  
4 that it was filed on November 22, 2010. The '913 patent states on its face that it was assigned to  
5 RPost Communications. A true and correct copy of the '913 patent is attached to this Complaint  
6 as Exhibit D.

7 17. On June 21, 2011, the PTO issued the '372 patent entitled "System And Method  
8 For Verifying Delivery And Integrity Of Electronic Messages." The '372 patent states on its face  
9 that it was filed on July 27, 2000. The '372 patent states on its face that it was assigned to  
10 RPOST International Limited (BM). A true and correct copy of the '372 patent is attached to this  
11 Complaint as Exhibit E.

12 18. On September 13, 2013, Ray Owens of RPost sent a letter to Scott Taylor,  
13 Executive Vice President, General Counsel and Secretary of Symantec Corporation, with the Re:  
14 line "Second Patent Infringement Notice." The September 13 letter alleges that RPost had sent an  
15 earlier letter which was not received by Symantec, and further stated that "we believe the  
16 Symantec's Email Security.cloud (Messagelabs), Encryption Management Server, Gateway  
17 Encryption Server, Email Policy Based Encryption, Data Leak Prevention (DLP / Vontu) and  
18 Email Security Appliance, at least the content filtering, data leak prevention, quarantine, and  
19 email encryption functions, are using RPost patent US 8,504,628, without permission or  
20 license..." RPost further asserted that "Symantec has been well informed about RPost's service  
21 offering and pending and granted patents since 2004, when Symantec was an investor in RPost  
22 and held a seat on RPost's board of directors."

23 19. On October 8, 2013, Angela Ziegenhorn, Senior Director, Symantec Corporation  
24 sent a letter to Ray Owens of RPost stating that Symantec "firmly disagree[s] that any of the  
25 accused Symantec products infringe the referenced RPost's patents..." Ms. Ziegenhorn also  
26 stated that any claims against Symantec Corporation "have been released by virtue of the  
27 settlement of the *Barton v. RPost Int'l Ltd, et al* (and Symantec) lawsuit (Case No. YC061581)."  
28

1           20.     The settlement agreement in the *Barton v. RPost Int'l Ltd, et al.* lawsuit was  
2 entered into in order to resolve litigation claims between Symantec and RPost International  
3 Limited. As part of the agreement, RPost International Limited provided a release for Symantec  
4 as to any then-existing IP claims. Each of the patents-in-suit was either filed or claims priority to  
5 an application that was filed prior to the execution of the settlement agreement.

6           21.     On October 14, 2013, Ray Owens of RPost sent an email to Ms. Ziegenhorn with a  
7 subject line: "RPost Patent Notice to Symantec - Final Letter." In the email Mr. Owens stated  
8 "[w]e understand that you have given your response to our claim of patent infringement in your  
9 abovementioned letter." RPost further stated "[w]e believe we have acted in a courteous manner,  
10 to properly inform you of your infringement of specific RPost patents by specific services you  
11 offer. We believe we have provided the detail needed for you, or through your counsel, to assess  
12 your infringement, with specificity..." RPost further requested that Symantec "immediately  
13 cease and desist from manufacture, use, or offer for sale RPost's patented technology through  
14 your products and services that contain RPost's patented technology." Mr. Owens' email  
15 included an attachment: "we have attached to this letter a more detailed analysis of Symantec's  
16 infringement of several RPost patents with inserted evidence that aligns with specific patent  
17 claims."

18           22.     RPost's October 14, 2013 email included a document marked "Confidential  
19 Communication Subject to FRE 408 for Content of Analysis in Addition to Associated  
20 Discussion." The document includes infringement allegations for the patents-in-suit.

21           23.     On January 15, 2014, Symantec Corporation filed petitions with the PTO  
22 requesting *inter partes* review of the '628 patent, the '199 patent and the '372 patent.

23           24.     Symantec does not infringe the patents-in-suit and the patents-in-suit are invalid.  
24 Additionally, RPost International Limited released all then-existing claims against Symantec  
25 regarding the patents-in-suit pursuant to the parties' October 25, 2011 settlement agreement.  
26 Accordingly, an actual and justiciable controversy exists between Symantec and RPost as to  
27 whether Symantec infringes any valid claim of the patents-in-suit. Absent a declaration of  
28

1 noninfringement, invalidity, or release of all claims regarding the patents-in-suit, RPost will  
 2 continue to wrongly assert the patents-in-suit against Symantec, and thereby cause Symantec  
 3 irreparable harm.

#### 4 **PATENT INFRINGEMENT**

5 25. On August 27, 2002, the PTO issued U.S Patent No. 6,442,686 (the “’686 patent”)  
 6 entitled “System And Methodology For Messaging Server-Based Management And Enforcement  
 7 Of Crypto Policies.” Symantec Corporation is the owner by assignment of all rights, title, and  
 8 interest in the ’686 patent, including the right to recover damages for past, present, and future  
 9 infringement of the patent and the right to seek injunctive relief against infringement of the  
 10 patent. A true and correct copy of the ’686 patent is attached to this Complaint as Exhibit F.

11 26. As it pertains to this lawsuit, the ’686 patent relates to a cryptographic-enabled  
 12 messaging system providing a “Policy Management Agent” that works with a standard mail  
 13 server to ensure that e-mail adheres to specified policies.

14 27. Upon information and belief, RPost’s RMail product includes policy-based  
 15 encryption features to ensure that e-mail adheres to specified policies.

#### 16 **FIRST CLAIM FOR RELIEF** **(Declaratory Relief Regarding Noninfringement of U.S. Patent No. 8,504,628)**

17 28. Symantec restates and incorporates by reference each of the allegations set forth  
 18 in paragraphs 1 through 27 above, as if fully set forth herein.

19 29. RPost contends that Symantec has or is infringing one or more claims of the ’628  
 20 patent.

21 30. On information and belief, RPost claims to be the owner of all right, title and  
 22 interest in the ’628 patent, including the right to assert all causes of action arising under that  
 23 patent and the right to any remedies for infringement of it.

24 31. Symantec does not infringe any claim of the ’628 patent, directly or indirectly,  
 25 contributorily or otherwise, through its or its customer’s activities in conjunction with any of  
 26 Symantec’s products or services.

27 32. As set forth above, an actual and justiciable controversy exists between Symantec  
 28



1 and RPost as to Symantec's noninfringement of the '628 patent.

2 33. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
3 Symantec requests that this Court enter a judgment that Symantec does not infringe, under any  
4 theory of infringement, any valid claim of the '628 patent.

5 **SECOND CLAIM FOR RELIEF**  
6 **(Declaratory Relief Regarding Invalidity of U.S. Patent No. 8,504,628)**

7 34. Symantec restates and incorporates by reference each of the allegations set forth  
8 in paragraphs 1 through 33 above, as if fully set forth herein.

9 35. Upon information and belief, RPost contends that the '628 patent is valid.

10 36. The claims of the '628 patent are invalid for failure to comply with one or more of  
11 the conditions for patentability set forth in Title 35 of the United States Code, including without  
12 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

13 37. As set forth above, an actual and justiciable controversy exists between Symantec  
14 and RPost as to whether the claims of the '628 patent are invalid.

15 38. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
16 Symantec requests that this Court enter a judgment that the claims of the '628 patent are invalid  
17 pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101,  
18 102, 103, and/or 112.

19 **THIRD CLAIM FOR RELIEF**  
20 **(Declaratory Relief Regarding Release of Claims Regarding U.S. Patent No. 8,504,628)**

21 39. Symantec restates and incorporates by reference each of the allegations set forth  
22 in paragraphs 1 through 38 above, as if fully set forth herein.

23 40. RPost contends that Symantec has or is infringing one or more claims of the '628  
24 patent.

25 41. The parties' October 25, 2011 Stipulation of Settlement of Claims Involving  
26 Defendants Symantec Corporation, Henri Isenberg and Charles Breed in *Kenneth Barton v. RPost*  
27 *International Limited, et al.*, Case No. YC061581, Superior Court of California, County of Los  
28 Angeles-Southwest District released Symantec from all then-existing IP claims by RPost.

42. The '628 patent was filed June 4, 2010, prior to the execution of the settlement



1 agreement.

2 43. As set forth above, an actual and justiciable controversy exists between Symantec  
3 and RPost as to whether RPost has released all claims against Symantec regarding the '628  
4 patent.

5 44. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
6 Symantec requests that this Court enter a judgment that RPost has released all claims against  
7 Symantec regarding the '628 patent.

8 **FOURTH CLAIM FOR RELIEF**  
9 **(Declaratory Relief Regarding Noninfringement of U.S. Patent No. 8,209,389)**

10 45. Symantec restates and incorporates by reference each of the allegations set forth  
11 in paragraphs 1 through 44 above, as if fully set forth herein.

12 46. RPost contends that Symantec has or is infringing one or more claims of the '389  
13 patent.

14 47. On information and belief, RPost claims to be the owner of all right, title and  
15 interest in the '389 patent, including the right to assert all causes of action arising under that  
16 patent and the right to any remedies for infringement of it.

17 48. Symantec does not infringe any claim of the '389 patent, directly or indirectly,  
18 contributorily or otherwise, through its or its customer's activities in conjunction with any of  
19 Symantec's products or services.

20 49. As set forth above, an actual and justiciable controversy exists between Symantec  
21 and RPost as to Symantec's noninfringement of the '389 patent.

22 50. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
23 Symantec requests that this Court enter a judgment that Symantec does not infringe, under any  
24 theory of infringement, any valid claim of the '389 patent.

25 **FIFTH CLAIM FOR RELIEF**  
26 **(Declaratory Relief Regarding Invalidity of U.S. Patent No. 8,209,389)**

27 51. Symantec restates and incorporates by reference each of the allegations set forth  
28 in paragraphs 1 through 50 above, as if fully set forth herein.

52. Upon information and belief, RPost contends that the '389 patent is valid.

53. The claims of the '389 patent are invalid for failure to comply with one or more of the conditions for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

54. As set forth above, an actual and justiciable controversy exists between Symantec and RPost as to whether the claims of the '389 patent are invalid.

55. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Symantec requests that this Court enter a judgment that the claims of the '389 patent are invalid pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

**SIXTH CLAIM FOR RELIEF**  
**(Declaratory Relief Regarding Release of Claims Regarding U.S. Patent No. 8,209,389)**

56. Symantec restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 55 above, as if fully set forth herein.

57. RPost contends that Symantec has or is infringing one or more claims of the '389 patent.

58. The parties' October 25, 2011 Stipulation of Settlement of Claims Involving Defendants Symantec Corporation, Henri Isenberg and Charles Breed in *Kenneth Barton v. RPost International Limited, et al.*, Case No. YC061581, Superior Court of California, County of Los Angeles-Southwest District released Symantec from all then-existing IP claims by RPost.

59. The '389 patent was filed December 29, 2010, prior to the execution of the settlement agreement.

60. As set forth above, an actual and justiciable controversy exists between Symantec and RPost as to whether RPost has released all claims against Symantec regarding the '389 patent.

61. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Symantec requests that this Court enter a judgment that RPost has released all claims against Symantec regarding the '389 patent.

**SEVENTH CLAIM FOR RELIEF**  
**(Declaratory Relief Regarding Noninfringement of U.S. Patent No. 8,468,199)**

62. Symantec restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 61 above, as if fully set forth herein.

63. RPost contends that Symantec has or is infringing one or more claims of the '199 patent.

64. On information and belief, RPost claims to be the owner of all right, title and interest in the '199 patent, including the right to assert all causes of action arising under that patent and the right to any remedies for infringement of it.

65. Symantec does not infringe any claim of the '199 patent, directly or indirectly, contributorily or otherwise, through its or its customer's activities in conjunction with any of Symantec's products or services.

66. As set forth above, an actual and justiciable controversy exists between Symantec and RPost as to Symantec's noninfringement of the '199 patent.

67. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Symantec requests that this Court enter a judgment that Symantec does not infringe, under any theory of infringement, any valid claim of the '199 patent.

**EIGHTH CLAIM FOR RELIEF**  
**(Declaratory Relief Regarding Invalidity of U.S. Patent No. 8,468,199)**

68. Symantec restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 67 above, as if fully set forth herein.

69. Upon information and belief, RPost contends that the '199 patent is valid.

70. The claims of the '199 patent are invalid for failure to comply with one or more of the conditions for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

71. As set forth above, an actual and justiciable controversy exists between Symantec and RPost as to whether the claims of the '199 patent are invalid.

72. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Symantec requests that this Court enter a judgment that the claims of the '199 patent are invalid

1 pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101,  
2 102, 103, and/or 112.

3 **NINTH CLAIM FOR RELIEF**  
4 **(Declaratory Relief Regarding Release of Claims Regarding U.S. Patent No. 8,468,199)**

5 73. Symantec restates and incorporates by reference each of the allegations set forth  
6 in paragraphs 1 through 72 above, as if fully set forth herein.

7 74. RPost contends that Symantec has or is infringing one or more claims of the '199  
8 patent.

9 75. The parties' October 25, 2011 Stipulation of Settlement of Claims Involving  
10 Defendants Symantec Corporation, Henri Isenberg and Charles Breed in *Kenneth Barton v. RPost*  
11 *International Limited, et al.*, Case No. YC061581, Superior Court of California, County of Los  
12 Angeles-Southwest District released Symantec from all then-existing IP claims by RPost.

13 76. The '199 patent claims priority to a provisional application filed December 17,  
14 1999, prior to the execution of the settlement agreement.

15 77. As set forth above, an actual and justiciable controversy exists between Symantec  
16 and RPost as to whether RPost has released all claims against Symantec regarding the '199  
17 patent.

18 78. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
19 Symantec requests that this Court enter a judgment that RPost has released all claims against  
20 Symantec regarding the '199 patent.

21 **TENTH CLAIM FOR RELIEF**  
22 **(Declaratory Relief Regarding Noninfringement of U.S. Patent No. 8,224,913)**

23 79. Symantec restates and incorporates by reference each of the allegations set forth  
24 in paragraphs 1 through 78 above, as if fully set forth herein.

25 80. RPost contends that Symantec has or is infringing one or more claims of the '913  
26 patent.

27 81. On information and belief, RPost claims to be the owner of all right, title and  
28 interest in the '913 patent, including the right to assert all causes of action arising under that  
patent and the right to any remedies for infringement of it.

1           82.     Symantec does not infringe any claim of the '913 patent, directly or indirectly,  
2 contributorily or otherwise, through its or its customer's activities in conjunction with any of  
3 Symantec's products or services.

4           83.     As set forth above, an actual and justiciable controversy exists between Symantec  
5 and RPost as to Symantec's noninfringement of the '913 patent.

6           84.     Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
7 Symantec requests that this Court enter a judgment that Symantec does not infringe, under any  
8 theory of infringement, any valid claim of the '913 patent.

9                           **ELEVENTH CLAIM FOR RELIEF**  
10                          **(Declaratory Relief Regarding Invalidity of U.S. Patent No. 8,224,913)**

11           85.     Symantec restates and incorporates by reference each of the allegations set forth  
12 in paragraphs 1 through 84 above, as if fully set forth herein.

13           86.     Upon information and belief, RPost contends that the '913 patent is valid.

14           87.     The claims of the '913 patent are invalid for failure to comply with one or more of  
15 the conditions for patentability set forth in Title 35 of the United States Code, including without  
16 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

17           88.     As set forth above, an actual and justiciable controversy exists between Symantec  
18 and RPost as to whether the claims of the '913 patent are invalid.

19           89.     Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
20 Symantec requests that this Court enter a judgment that the claims of the '913 patent are invalid  
21 pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101,  
22 102, 103, and/or 112.

23                           **TWELFTH CLAIM FOR RELIEF**  
24                          **(Declaratory Relief Regarding Release of Claims Regarding U.S. Patent No. 8,224,913)**

25           90.     Symantec restates and incorporates by reference each of the allegations set forth  
26 in paragraphs 1 through 89 above, as if fully set forth herein.

27           91.     RPost contends that Symantec has or is infringing one or more claims of the '913  
28 patent.

          92.     The parties' October 25, 2011 Stipulation of Settlement of Claims Involving

1 Defendants Symantec Corporation, Henri Isenberg and Charles Breed in *Kenneth Barton v. RPost*  
 2 *International Limited, et al.*, Case No. YC061581, Superior Court of California, County of Los  
 3 Angeles-Southwest District released Symantec from all then-existing IP claims by RPost.

4 93. The '913 patent was filed on November 22, 2010, prior to the execution of the  
 5 settlement agreement.

6 94. As set forth above, an actual and justiciable controversy exists between Symantec  
 7 and RPost as to whether RPost has released all claims against Symantec regarding the '913  
 8 patent.

9 95. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
 10 Symantec requests that this Court enter a judgment that RPost has released all claims against  
 11 Symantec regarding the '913 patent.

12 **THIRTEENTH CLAIM FOR RELIEF**  
**(Declaratory Relief Regarding Noninfringement of U.S. Patent No. 7,966,372)**

13 96. Symantec restates and incorporates by reference each of the allegations set forth  
 14 in paragraphs 1 through 95 above, as if fully set forth herein.

15 97. RPost contends that Symantec has or is infringing one or more claims of the '372  
 16 patent.

17 98. On information and belief, RPost claims to be the owner of all right, title and  
 18 interest in the '372 patent, including the right to assert all causes of action arising under that  
 19 patent and the right to any remedies for infringement of it.

20 99. Symantec does not infringe any claim of the '372 patent, directly or indirectly,  
 21 contributorily or otherwise, through its or its customer's activities in conjunction with any of  
 22 Symantec's products or services.

23 100. As set forth above, an actual and justiciable controversy exists between Symantec  
 24 and RPost as to Symantec's noninfringement of the '372 patent.

25 101. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
 26 Symantec requests that this Court enter a judgment that Symantec does not infringe, under any  
 27 theory of infringement, any valid claim of the '372 patent.

**FOURTEENTH CLAIM FOR RELIEF**  
**(Declaratory Relief Regarding Invalidity of U.S. Patent No. 7,966,372)**

102. Symantec restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 101 above, as if fully set forth herein.

103. Upon information and belief, RPost contends that the '372 patent is valid.

104. The claims of the '372 patent are invalid for failure to comply with one or more of the conditions for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

105. As set forth above, an actual and justiciable controversy exists between Symantec and RPost as to whether the claims of the '372 patent are invalid.

106. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Symantec requests that this Court enter a judgment that the claims of the '372 patent are invalid pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

**FIFTEENTH CLAIM FOR RELIEF**  
**(Declaratory Relief Regarding Release of Claims Regarding U.S. Patent No. 7,966,372)**

107. Symantec restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 106 above, as if fully set forth herein.

108. RPost contends that Symantec has or is infringing one or more claims of the '372 patent.

109. The parties' October 25, 2011 Stipulation of Settlement of Claims Involving Defendants Symantec Corporation, Henri Isenberg and Charles Breed in *Kenneth Barton v. RPost International Limited, et al.*, Case No. YC061581, Superior Court of California, County of Los Angeles-Southwest District released Symantec from all then-existing IP claims by RPost.

110. The '372 patent was filed on July 27, 2000, prior to the execution of the settlement agreement.

111. As set forth above, an actual and justiciable controversy exists between Symantec and RPost as to whether RPost has released all claims against Symantec regarding the '372 patent.



112. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Symantec requests that this Court enter a judgment that RPost has released all claims against Symantec regarding the '372 patent.

**SIXTEENTH CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 6,442,686)**

113. Symantec restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 112 above, as if fully set forth herein.

114. Symantec is the owner of the '686 patent with the exclusive right to enforce the '686 patent against infringers, and collect damages for all relevant times, including the right to prosecute this action.

115. RPost has actual or constructive notice of the '686 patent and RPost's infringement of the '686 patent at least from the time of the filing of this First Amended Complaint.

116. RPost has been and is now infringing the '686 patent, directly within this judicial district and elsewhere in the United States, by, among other things, making, using, licensing, selling, offering for sale, and/or inducing its customers to use its infringing email encryption features.

117. RPost's continuing infringement of the '686 patent will continue to damage Symantec, causing irreparable harm for which there is no adequate remedy at law, unless RPost is enjoined by this Court from further acts of infringement.

118. RPost's past and future acts of infringement of the '686 patent have caused and will cause damages to Symantec, entitling Symantec to recover damages from RPost in an amount subject to proof at trial, but in no event less than a reasonable royalty extending through the life of the '686 patent.

**PRAYER FOR RELIEF**

WHEREFORE, Symantec respectfully prays for judgment in favor of Symantec and against RPost, as follows:

A. For a judicial determination and declaration that Symantec has not infringed and is

1 not infringing, directly or indirectly, any claim of the patents-in-suit;

2 B. For a judicial determination and declaration that each claim of the patents-in-suit is  
3 invalid;

4 C. For a judicial determination and declaration that RPost has released all claims  
5 against Symantec regarding patents-in-suit;

6 D. For injunctive relief against RPost, and all persons acting on its behalf or in  
7 concert with it, restraining them from further prosecuting or instituting any action against  
8 Symantec or Symantec's customers claiming that the patents-in-suit are valid or infringed, or for  
9 representing that Symantec's products or services, or that others' use thereof, infringe the patents-  
10 in-suit;

11 E. For entry of judgment that RPost has infringed and continues to infringe one or  
12 more claims of the '686 patent;

13 F. For RPost to account for and pay to Symantec all damages allowed by law for  
14 infringement of the '686 patent, including prejudgment and postjudgment interest;

15 G. For RPost, and its officers, agents, servants, employees, and those persons in  
16 active concert or participation with any of them, be preliminarily and permanently enjoined from  
17 any further infringement of the '686 patent pursuant to 35 U.S.C. § 283. In the alternative, if the  
18 Court finds that an injunction is not warranted, Symantec requests an award of postjudgment  
19 royalty to compensate for future infringement;

20 H. For a declaration that this case is exceptional under 35 U.S.C. § 285 and for an  
21 award of attorneys' fees and costs in this action; and

22 I. For such other and further relief as this Court may deem just and proper.

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**DEMAND FOR JURY TRIAL**

Symantec hereby demands a jury trial on all issue and claims so triable.

Dated: April 7, 2014

FENWICK & WEST LLP

By: /s/ Michael J. Sacksteder

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SYMANTEC CORPORATION

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