

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

ACTIVISION TV, INC.,

Plaintiff,

v.

AMERICAN DIGITAL SIGNAGE, LLC,

Defendant.

Civil Action No. 13-2149

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Activision TV, Inc. (“Plaintiff”), for its Complaint (“Complaint”) against Defendant American Digital Signage, LLC (“Defendant”), alleges and states as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271, *et seq.*

2. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

3. On information and belief, Defendant is subject to the Court’s general jurisdiction as a result of its activities in the forum, including, regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to persons or entities in Minnesota. As such, Defendant has purposefully availed itself of the privilege of conducting business within this Judicial District; has established sufficient minimum contacts with this Judicial District such that it should reasonably and fairly anticipate being haled into court

in this Judicial District; has purposefully directed activities at residents of this State; and at least a portion of the patent infringement claims alleged herein arise out of or are related to one or more of the foregoing activities.

4. Venue is proper in this District under 28 U.S.C. §§ 1400 (b) and 1391.

THE PARTIES

5. Plaintiff is a corporation organized under the laws of Delaware with its principal place of business at 5400 Yahl Street, Suite D, Naples, Florida 34109.

6. Upon information and belief, Defendant is a corporation organized under the laws of Illinois with a place of business at 210 Landmark Dr., Suite D, Normal IL 61761, and a registered agent for service of process at Lyndel K. Armstrong, Ltd., 2409 E Washington St., Suite C, Bloomington, IL 61704.

COUNT I

INFRINGEMENT OF U.S. PATENT NOS. 7,369,058 and 8,330,613

7. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 6 as though fully set forth herein.

8. On May 6, 2008, United States Patent No. 7,369,058 (“the ’058 Patent,”), entitled “REMOTE CONTROL ELECTRONIC DISPLAY SYSTEM,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’058 Patent is attached as Exhibit A to this Complaint.

9. On December 11, 2012, United States Patent No. 8,330,613 (“the ’613 Patent,” or, collectively with the ’058 Patent, the “Activision Patents”), entitled “REMOTE CONTROL ELECTRONIC DISPLAY SYSTEM,” was duly and legally

issued by the United States Patent and Trademark Office. A true and correct copy of the '613 Patent is attached as Exhibit B to this Complaint.

10. Plaintiff, as the assignee and owner of all right, title, and interest in and to the Activision Patents, has the right to assert causes of action arising under the Activision Patents and the right to any remedies for infringement thereof.

11. Defendant has been directly infringing and continues to directly infringe one or more claims of each of the Activision Patents in the United States at least by selling and/or offering to sell digital signage systems including but not limited to Defendant's Grocery Network and Enterprise signage systems (the "Accused Systems") throughout the United States and in this judicial district in violation of 35 U.S.C. § 271 (a).

12. Defendant was made aware of the Activision Patents and their infringement thereof at least as early as its receipt of correspondence from Plaintiff providing notice of the Activision Patents and Defendant's infringement thereof sent to Defendant on June 20, 2013. This letter was sent certified mail with return receipt requested. In the correspondence, Plaintiff informed Defendant that it was infringing the Activision Patents by the use, sale, and offer to sell remotely controlled digital signage products and services. Plaintiff's correspondence also informed Defendant that Defendant was inducing infringement of the Activision Patents by allowing, encouraging, permitting, assisting, supporting and/or providing training to its customers and end users in the use of the Accused Systems. Plaintiff's correspondence also informed Defendant that Defendant was contributing to infringement of the Activision Patents by selling and

offering for sale the Accused Systems. With respect to both induced and contributory infringement, Plaintiff's correspondence informed Defendant that the direct infringers were Defendant's customers.

13. In particular, the Accused Systems constitute a material part of the claimed invention at least because they comprise the display system claimed in the Activision Patents. The Accused Systems were made or especially adapted for use in an infringement of the Activision Patents and have no substantial non-infringing uses. Defendant has known or remained willfully blind to these facts since at least the date Defendant received correspondence from Plaintiff notifying Defendant that its products and services infringe the Activision Patents.

14. Upon information and belief, since at least the time it received notice, Defendant has induced and continues to induce others to infringe at least one claim of the Activision Patents under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to, Defendant's partners and/or customers, whose use of Defendant's Accused Systems constitutes direct infringement of at least one claim of the Activision Patents

15. In particular, Defendant's actions that aid and abet others such as their partners and/or customers to infringe include advertising and distributing the Accused Systems and providing instruction materials, training, and services regarding the Accused Systems. On information and belief, Defendant has engaged in such actions with the specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the Activision Patents and

that its acts were inducing their customers to infringe the Activision Patents since at least the date Defendant received notice that such activities infringed the Activision Patents

16. Despite Plaintiff's notice regarding the Activision Patents, Defendant has continued to infringe the Activision Patents. On information and belief, Defendant's infringement has been and continues to be willful.

17. Because of Defendant's infringement of the Activision Patents, Plaintiff has suffered damages and will continue to suffer damages in the future. Plaintiff is entitled to an award of such damages, but in no event less than a reasonable royalty, the precise amount to be determined at trial.

18. Plaintiff has suffered irreparable injury due to the acts of infringement by Defendant and will continue to suffer such irreparable injury unless Defendant's infringing activities are enjoined.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Activision TV, Inc. respectfully demands entry of judgment against Defendant American Digital Signage, LLC as follows:

- A. Finding that Defendant has infringed the Activision Patents;
- B. Permanently enjoining and restraining Defendant, its agents, affiliates, subsidiaries, servants, employees, officers, directors, attorneys, and those persons in

active concert with or controlled by Defendant from further infringing the Activision patents;

C. Awarding Plaintiff damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement of the Activision Patents and any continuing or future infringement of the Activision Patents through the date such judgment is entered, together with pre-judgment and post-judgment interest, costs and expenses as justified under 35 U.S.C. § 284;

D. Finding Defendant's infringement of the Activision Patents to be willful, and awarding Plaintiff enhanced damages pursuant to 35 U.S.C. § 284 for such willful infringement of the Activision Patents;

E. Ordering an accounting of all infringing acts including, but not limited to, those acts not presented at trial and an award of damages to Plaintiff for any such acts;

F. Declaring that this case is exceptional under 35 U.S.C. § 285, and awarding Plaintiff's reasonable attorneys' fees and costs incurred in this action; and

G. Awarding such other and further relief at law or in equity as the Court deems just and proper.

Dated: August 8, 2013.

/s/Alan M. Anderson

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