

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

ACTIVISION TV, INC.,

Plaintiff,

v.

DRAKE PETROLEUM COMPANY, INC.,

Defendant.

Civil Action No.:13-11948

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Activision TV, Inc. by way of this Complaint for Patent Infringement (“Complaint”) against Drake Petroleum Drake Petroleum Company, Inc. (“Drake Petroleum”), hereby alleges as follows:

THE PARTIES

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

2. Upon information and belief, Drake Petroleum is corporation organized under the laws of Massachusetts with a principal place of business at 221 Quinebaug Road, North Grosvenordale, Connecticut 06255, and a registered agent, Warren Equities, Inc., at 301 Edgewater Place, Suite 320, Wakefield, Massachusetts 01880. Drake Petroleum is the owner and manager of Xtra Mart Convenience Stores.

JURISDICTION AND VENUE

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

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

5. This Court has personal jurisdiction over Drake Petroleum at least because Drake Petroleum has ongoing and systematic contacts with this District and the United States. Specifically, Drake Petroleum is a corporation organized under the laws of Massachusetts, and has thereby availed itself of the privileges and the protections of the laws of the Commonwealth of Massachusetts. Furthermore, Drake Petroleum owns and operates a business within this judicial district.

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

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

7. Activision repeats and realleges 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, 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 (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. Activision, 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 said patents and the right to any remedies for infringement thereof.

11. Drake Petroleum 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 using digital signage systems in its Xtra Mart Convenient Stores throughout the United States, and within this District, in violation of 35 U.S.C. § 271 (a).

12. Because of Drake Petroleum's infringement of the Activision Patents, Activision has suffered damages and will continue to suffer damages in the future.

13. Activision has suffered irreparable injury due to the acts of infringement by Drake Petroleum and will continue to suffer such irreparable injury unless Drake Petroleum's infringing activities are enjoined.

14. Drake Petroleum will be deemed to have knowledge of the Activision Patents and their infringement of the Activision Patents at least as of the service date of this Complaint.

JURY DEMAND

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

PRAYER FOR RELIEF

WHEREFORE, Activision respectfully demands judgment for itself and against Drake Petroleum as follows:

- A. An adjudication that Drake Petroleum has infringed the Activision Patents;
- B. permanently enjoining and restraining Drake Petroleum, its agents, affiliates, subsidiaries, servants, employees, officers, directors, attorneys, and those persons in active concert with or controlled by Drake Petroleum from further infringing the Activision patents;
- C. an award of damages to be paid by Drake Petroleum adequate to compensate Activision for its 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. to the extent that Drake Petroleum's conduct with respect to the Activision Patents is found to be willful, enhanced damages pursuant to 35 U.S.C. § 284 for such willful infringement of the Activision Patents;

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

F. a declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Activision's reasonable attorneys' fees; and

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

Dated: August 13, 2013

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