

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

ACTIVISION TV, INC.,

Plaintiff,

v.

WENDY'S INTERNATIONAL INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Activision TV, Inc. ("Plaintiff"), by way of this Complaint for Patent Infringement ("Complaint") against Defendant Wendy's International Inc. ("Defendant"), hereby alleges as follows:

THE PARTIES

1. Plaintiff 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, Defendant is a corporation organized under the laws of Delaware with a principal place of business at One Dave Thomas Boulevard, Dublin, Ohio 43017.

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 Defendant at least because Defendant has ongoing and systematic contacts with this District and the United States. Specifically, Defendant is a corporation organized under the laws of Delaware, has a registered agent for service of process in Delaware, and has thereby availed itself of the privileges and the protections of the laws of the State of Delaware. In addition, Defendant maintains at least one place of 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. Plaintiff 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. 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 said 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 using digital

signage products including but not limited to WAND digital menu boards in its locations throughout the United States in violation of 35 U.S.C. § 271 (a).

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

13. 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.

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

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 respectfully demands judgment for itself and against Defendant as follows:

- A. An adjudication 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. An award of damages to be paid by Defendant adequate to compensate Plaintiff 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 the Defendant's conduct subsequent to the date of their notice of the Activision Patents is found to be objectively reckless, enhanced damages pursuant to 35 U.S.C. § 284 for Defendant's 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 Plaintiff's damages for any such acts;

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

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

Dated: October 25, 2013

STAMOULIS & WEINBLATT LLC

/s/ Richard C. Weinblatt

Richard C. Weinblatt #5080

weinblatt@swdelaw.com

Stamatios Stamoulis #4606

stamoulis@swdelaw.com

Two Fox Point Centre

6 Denny Road, Suite 307

Wilmington, DE 19809

Telephone: (302) 999-1540

**Attorneys for Plaintiff
ACTIVISION TV, INC.**