

Glaser Weil Fink Jacobs
Howard Avchen & Shapiro LLP

1 ADRIAN M. PRUETZ - State Bar No. 118215
 apruetz@glaserweil.com
 2 MIEKE K. MALMBERG - State Bar No. 209992
 mmalmberg@glaserweil.com
 3 CHARLES C. KOOLE - State Bar No. 259997
 ckoole@glaserweil.com
 4 DAN LIU - State Bar No. 287074
 dliu@glaserweil.com
 5 GLASER WEIL FINK JACOBS
 6 HOWARD AVCHEN & SHAPIRO LLP
 7 10250 Constellation Boulevard, 19th Floor
 8 Los Angeles, California 90067
 9 Telephone: (310) 553-3000
 Facsimile: (310) 556-2920

10
 11 STEVEN R. HANSEN - State Bar No. 198401
 steven.hansen@ltlattorneys.com
 12 LEE TRAN & LIANG LLP
 13 601 South Figueroa Street, Suite 3900
 Los Angeles, California 90017
 14 Tel: 213-612-8900
 15 Fax: 213-612-3773

16 *Attorneys for Plaintiff*
 17 *VIZIO, Inc.*

18 **UNITED STATES DISTRICT COURT**
 19 **CENTRAL DISTRICT OF CALIFORNIA**
 20 **WESTERN DIVISION**

21 VIZIO, INC., a California corporation,

22 Plaintiff,

23 v.

24 PRAGMATUS TELECOM, LLC, a
 25 Delaware limited liability company,

26 Defendant.

CASE NO.: 2:14-cv-2299

**COMPLAINT FOR
 DECLARATORY JUDGMENT OF
 NONINFRINGEMENT AND
 INVALIDITY OF UNITED STATES
 PATENTS NOS. 6,311,231,
 6,668,286, 7,159,043, AND 8,438,314**

DEMAND FOR JURY TRIAL

1 Plaintiff VIZIO, Inc. (“VIZIO”) hereby files this Complaint for Declaratory
2 Judgment against Defendant Pragmatus Telecom, LLC (“Pragmatus”), as follows:

3 **NATURE OF THE ACTION**

4 1. This action seeks declaratory judgment that (a) VIZIO has not infringed,
5 and is not infringing, directly or indirectly, any valid or enforceable claims of U.S.
6 Patent Nos. 6,311,231 (the “231 Patent”), 6,668,286 (the “286 Patent”), 7,159,043
7 (the “043 Patent”), and 8,438,314 (the “314 Patent”) (collectively, the “Patents-in-
8 suit”); and (b) each claim of the Patents-in-suit is invalid.

9 **PARTIES**

10 2. VIZIO is a California corporation, with its principal place of business at
11 39 Tesla, Irvine, California, 92618.

12 3. On information and belief, Pragmatus is a Delaware limited liability
13 company, with its principal place of business at 601 North King Street, Suite 404,
14 Alexandria, Virginia, 22314. Attached hereto as Exhibits A and B are true and
15 correct copies of the LLC registrations of Pragmatus Telecom, LLC from the states of
16 Delaware and Virginia indicating that Pragmatus Telecom, LLC is a Delaware limited
17 liability company.

18 **JURISDICTION AND VENUE**

19 4. VIZIO brings this action under Title 35 of the United States Code and 28
20 U.S.C. §§ 2201-2202, to obtain a declaration of noninfringement and invalidity with
21 respect to the Patents-in-suit.

22 5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and
23 1338(a).

24 6. This Court has personal jurisdiction over Pragmatus because, on
25 information and belief, Pragmatus transacts substantial business within this District,
26 including efforts to license and enforce the Patents-in-suit. In addition, Pragmatus has
27 availed itself of this Court and jurisdiction thereof by filing complaints for patent
28 infringement involving three of the four Patents-in-suit against multiple entities in this

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1 District.

2 7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(a),
3 1391(c), and 1400.

4 **THE '231 PATENT**

5 8. The '231 Patent is entitled "Method and system for coordinating data and
6 voice communications via customer contract channel changing system using voice
7 over IP" and bears an issuance date of October 30, 2001. A true and correct copy of
8 the '231 Patent is attached as Exhibit C.

9 9. On information and belief, Pragmatus is the alleged owner of all right,
10 title and interest in the '231 Patent.

11 **THE '286 PATENT**

12 10. The '286 Patent is entitled "Method and system for coordinating data and
13 voice communications via customer contact channel changing system over IP" and
14 bears an issuance date of December 23, 2003. The '286 Patent is a continuation of
15 the '231 Patent. A true and correct copy of the '286 Patent is attached as Exhibit D.

16 11. On information and belief, Pragmatus is the alleged owner of all right,
17 title and interest in the '286 Patent.

18 **THE '043 PATENT**

19 12. The '043 Patent is entitled "Method and system for coordinating data and
20 voice communications via contact channel changing system" and bears an issuance
21 date of January 2, 2007. The '043 Patent is a continuation of the '286 Patent. A true
22 and correct copy of the '043 Patent is attached as Exhibit E.

23 13. On information and belief, Pragmatus is the alleged owner of all right,
24 title and interest in the '043 Patent.

25 **THE '314 PATENT**

26 14. The '314 Patent is entitled "Method and system for coordinating data and
27 voice communications via customer contact channel changing system" and bears an
28 issuance date of May 7, 2013. The '314 Patent is a division of the '043 Patent. A

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1 true and correct copy of the '314 Patent is attached as Exhibit F.

2 15. On information and belief, Pragmatus is the alleged owner of all right,
3 title and interest in the '314 Patent.

4 **FACTS**

5 16. On February 6, 2014, Pragmatus filed a complaint in the District of
6 Delaware, alleging that VIZIO, Inc., a Delaware corporation (“VIZIO Delaware”),
7 infringes the Patents-in-suit (the “Delaware Action”) by “provid[ing] live chat service
8 over the Internet.”

9 17. VIZIO Delaware does not “provide live chat service over the Internet.”

10 18. Plaintiff VIZIO conducts all business concerning all products sold under
11 the VIZIO name and maintains VIZIO’s website, www.vizio.com, including the
12 allegedly infringing “live chat service over the Internet” identified by Pragmatus in
13 the Delaware Action.

14 19. On multiple occasions, VIZIO, through its counsel, notified counsel for
15 Pragmatus in the Delaware Action that Plaintiff VIZIO conducts all business
16 concerning all products sold under the VIZIO name and maintains VIZIO’s website,
17 www.vizio.com.

18 20. Despite these notifications, Pragmatus has continued to maintain its
19 patent infringement claims against VIZIO Delaware, and not Plaintiff VIZIO, in the
20 Delaware Action.

21 21. Accordingly, because Pragmatus has proven its willingness to assert the
22 Patents-in-suit through litigation against the website maintained by VIZIO, there
23 exists an actual and justiciable controversy between VIZIO and Pragmatus concerning
24 the infringement and validity of the Patents-in-suit.

25 **COUNT I**

26 **DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE**

27 **'231 PATENT**

28 22. VIZIO realleges and incorporates by reference each and every allegation

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1 contained in the above paragraphs as if fully set forth herein.

2 23. VIZIO has not infringed, and is not infringing any valid or enforceable
3 claim of the '231 Patent, by direct infringement, contributory infringement, or
4 inducement of infringement, either literally or under the doctrine of equivalents.

5 24. To resolve the legal and factual questions raised by Pragmatus and to
6 afford relief from the uncertainty and controversy that Pragmatus' actions have
7 caused, VIZIO hereby seeks entry of a declaratory judgment that VIZIO has not
8 infringed, is not infringing, directly or indirectly, either literally or under the doctrine
9 of equivalents, any valid or enforceable claim of the '231 Patent.

10 **COUNT II**

11 **DECLARATORY JUDGMENT OF INVALIDITY OF THE '231 PATENT**

12 25. VIZIO realleges and incorporates by reference each and every allegation
13 contained in the above paragraphs as if fully set forth herein.

14 26. The claims of the '231 Patent are invalid or unenforceable for failure to
15 meet the requirements of Title 35, United States Code, including but not limited to,
16 Section 101, 102, 103, and/or 112, and the rules, regulations, and laws pertaining
17 thereto.

18 27. To resolve the legal and factual questions raised by Pragmatus and to
19 afford relief from the uncertainty and controversy that Pragmatus' actions have
20 caused, VIZIO hereby seeks entry of a declaratory judgment that the claims of the
21 '231 Patent are invalid.

22 **COUNT III**

23 **DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE**
24 **'286 PATENT**

25 28. VIZIO realleges and incorporates by reference each and every allegation
26 contained in the above paragraphs as if fully set forth herein.

27 29. VIZIO has not infringed, and is not infringing any valid or enforceable
28 claim of the '286 Patent by direct infringement, contributory infringement, or

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1 inducement of infringement, either literally or under the doctrine of equivalents.

2 30. To resolve the legal and factual questions raised by Pragmatus and to
3 afford relief from the uncertainty and controversy that Pragmatus' actions have
4 caused, VIZIO hereby seeks entry of a declaratory judgment that VIZIO has not
5 infringed, is not infringing, directly or indirectly, either literally or under the doctrine
6 of equivalents, any any valid or enforceable claim of the '286 Patent.

7 **COUNT IV**

8 **DECLARATORY JUDGMENT OF INVALIDITY OF THE '286 PATENT**

9 31. VIZIO realleges and incorporates by reference each and every allegation
10 contained in the above paragraphs as if fully set forth herein.

11 32. The claims of the '286 Patent are invalid or unenforceable for failure to
12 meet the requirements of Title 35, United States Code, including but not limited to,
13 Section 101, 102, 103, and/or 112, and the rules, regulations, and laws pertaining
14 thereto.

15 33. To resolve the legal and factual questions raised by Pragmatus and to
16 afford relief from the uncertainty and controversy that Pragmatus' actions have
17 caused, VIZIO hereby seeks entry of a declaratory judgment that the claims of the
18 '286 Patent are invalid.

19 **COUNT V**

20 **DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE**
21 **'043 PATENT**

22 34. VIZIO realleges and incorporates by reference each and every allegation
23 contained in the above paragraphs as if fully set forth herein.

24 35. VIZIO has not infringed, and is not infringing any valid or enforceable
25 claim of the '043 Patent by direct infringement, contributory infringement, or
26 inducement of infringement, either literally or under the doctrine of equivalents.

27 36. To resolve the legal and factual questions raised by Pragmatus and to
28 afford relief from the uncertainty and controversy that Pragmatus' actions have

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1 caused, VIZIO hereby seeks entry of a declaratory judgment that VIZIO has not
2 infringed, is not infringing, directly or indirectly, either literally or under the doctrine
3 of equivalents, any any valid or enforceable claim of the '043 Patent.

4 **COUNT VI**

5 **DECLARATORY JUDGMENT OF INVALIDITY OF THE '043 PATENT**

6 37. VIZIO realleges and incorporates by reference each and every allegation
7 contained in the above paragraphs as if fully set forth herein.

8 38. The claims of the '043 Patent are invalid or unenforceable for failure to
9 meet the requirements of Title 35, United States Code, including but not limited to,
10 Section 101, 102, 103, and/or 112, and the rules, regulations, and laws pertaining
11 thereto.

12 39. To resolve the legal and factual questions raised by Pragmatus and to
13 afford relief from the uncertainty and controversy that Pragmatus' actions have
14 caused, VIZIO hereby seeks entry of a declaratory judgment that the claims of the
15 '043 Patent are invalid.

16 **COUNT VII**

17 **DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE**
18 **'314 PATENT**

19 40. VIZIO realleges and incorporates by reference each and every allegation
20 contained in the above paragraphs as if fully set forth herein.

21 41. VIZIO has not infringed, and is not infringing any valid or enforceable
22 claim of the '314 Patent by direct infringement, contributory infringement, or
23 inducement of infringement, either literally or under the doctrine of equivalents.

24 42. To resolve the legal and factual questions raised by Pragmatus and to
25 afford relief from the uncertainty and controversy that Pragmatus' actions have
26 caused, VIZIO hereby seeks entry of a declaratory judgment that VIZIO has not
27 infringed, is not infringing, directly or indirectly, either literally or under the doctrine
28 of equivalents, any any valid or enforceable claim of the '314 Patent.

COUNT VIII

DECLARATORY JUDGMENT OF INVALIDITY OF THE '314 PATENT

43. VIZIO realleges and incorporates by reference each and every allegation contained in the above paragraphs as if fully set forth herein.

44. The claims of the '314 Patent are invalid or unenforceable for failure to meet the requirements of Title 35, United States Code, including but not limited to, Section 101, 102, 103, and/or 112, and the rules, regulations, and laws pertaining thereto.

45. To resolve the legal and factual questions raised by Pragmatus and to afford relief from the uncertainty and controversy that Pragmatus' actions have caused, VIZIO hereby seeks entry of a declaratory judgment that the claims of the '314 Patent are invalid.

PRAYER FOR RELIEF

Wherefore, VIZIO respectfully requests that this Court:

(a) enter judgment in favor of VIZIO that VIZIO has not infringed and does not infringe the '231, '286, '043, or '314 Patents either directly or indirectly;

(b) enter judgment that the claims of the '231, '286, '043, and '314 Patents are invalid;

(c) declare this case exceptional and award VIZIO its reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

(d) grant VIZIO such other relief as the Court deems just and equitable.

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1 Date: March 25, 2014

Respectfully submitted,

3 /s/ Adrian M. Pruetz

4 Adrian M. Pruetz

Mieke K. Malmberg

5 Charles C. Koole

6 Dan Liu

GLASER WEIL FINK JACOBS

7 HOWARD AVCHEN & SHAPIRO LLP

8 Steven R. Hansen

9 LEE TRAN & LIANG LLP

10 *Attorneys for Plaintiff*

11 *VIZIO, Inc.*

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Howard Avchen & Shapiro LLP

DEMAND FOR JURY TRIAL

VIZIO demands a trial by jury on all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Date: March 25, 2014

Respectfully submitted,

/s/ Adrian M. Pruetz

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GLASER WEIL FINK JACOBS

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Attorneys for Plaintiff

VIZIO, Inc.

Glaser Weil Fink Jacobs
Howard Avchen & Shapiro LLP

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