

**UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

VIDEOSHARE, LLC, a Delaware limited liability company,

Plaintiff,

v.

VIDDLER, INC., a Delaware corporation.

Defendant.

Civil Action No: 13-cv-991-GMS

**DEMAND FOR JURY TRIAL**

**SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff VideoShare, LLC (“VideoShare”) sues Defendant Viddler, LLC (“Defendant”) and on information and belief alleges as follows:

1. Plaintiff VideoShare owns the inventions described and claimed in (i) United States Patent No. 8,438,608 entitled “Sharing a Streaming Video” (the “‘608 Patent,” a copy of which is attached hereto as Exhibit A) and (ii) United States Patent No. 8,464,302 entitled “Method and System for Sharing Video with Advertisements Over a Network” (the “‘302 Patent,” a copy of which is attached hereto as Exhibit B). Defendant, without VideoShare’s permission, (a) has used and continues to use VideoShare’s patented technology in products and services that it makes, uses, imports, sells, and offers to sell and (b) has contributed to and/or induced, and continues to contribute to and/or induce, others to use VideoShare’s patented technology. VideoShare seeks damages for patent infringement and an injunction preventing Defendant from making, using, selling, or offering to sell VideoShare’s technology without permission.

**Jurisdiction and Venue**

2. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281, *et seq.* The Court has original jurisdiction over this patent infringement action under 28 U.S.C. §§ 1331 and 1338(a).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and § 1400. Defendant (a) is a Delaware entity that avails itself of the laws and protections of the District of Delaware; (b) is responsible for acts of infringement occurring in the District of Delaware; and (c) has delivered or caused its infringing products and/or services to be delivered and/or used in the District of Delaware.

**Parties**

4. Plaintiff VideoShare is a Delaware limited liability company with its principal place of business in Chestnut Hill, Massachusetts.

5. Defendant Viddler, Inc. is a Delaware corporation with a principal place of business in Bethlehem, Pennsylvania.

**COUNT I**

**(Viddler's infringement of the '608 Patent)**

6. Plaintiff incorporates by reference each of the allegations in paragraphs 1-5 above.

7. On May 7, 2013, the '608 Patent, disclosing and claiming a "Sharing Streaming a Video" invention, was duly and legally issued by the United States Patent and Trademark Office.

8. Each claim of the '608 Patent is valid and enforceable.

9. Plaintiff VideoShare is the owner of the '608 Patent with full rights to pursue recovery of royalties or damages for infringement of such patent, including full rights to recover past and future damages.

10. Since May 7, 2013, Defendant has directly infringed the '608 Patent and, unless enjoined, will continue to do so, by making, using, selling, and/or offering for sale infringing products and/or services, without a license or permission from VideoShare. Defendant's infringing products and services include its products and services for receiving, converting, and sharing streaming video, including those marketed as Viddler.

11. Defendant has actively induced, and will continue to actively induce, users of its infringing products and services to infringe the '608 Patent. Users of the Viddler system have directly infringed and continue to directly infringe the '608 Patent. Defendant has induced, and continues to induce, the direct infringement of Viddler users by instructing the users (including through, without limitation, instructions on the Viddler website, product documentation, and customer support) to use the Viddler system in an infringing manner. Defendant knew of the '608 Patent since May 23, 2013. Based on its knowledge of the '608 Patent and its continued instruction of users to use the Viddler system in an infringing manner, Defendant knew that its actions would induce and will continue to induce users of the Viddler system to infringe the '608 Patent. As a result of Defendant's inducement, users of Defendant's infringing products and services have infringed and continue to infringe the '608 Patent.

12. Defendant has contributed to and continues to contribute to the infringement of the '608 Patent by the users of its infringing products and services. Users of the Viddler system have directly infringed and continue to directly infringe the '608 Patent by using the Viddler

system. Defendant has contributed to and continues to contribute to the direct infringement of Viddler users by supplying (in or from the United States) material parts of the Viddler system, including Viddler computer servers that make up in whole or in part the claimed “receiving computer” of the patented ‘608 invention. Defendant knew of the ‘608 Patent since May 23, 2013. Defendant had and has knowledge that the Viddler computer servers are especially made and adapted for use in the infringing Viddler system, are not a staple of commerce, and are not suitable for substantial non-infringing use. In particular, each of the Viddler servers constituting a material part of the infringing Viddler system is specifically created and programmed to perform operations that align with the claimed elements of patented invention—for example, receiving video files from users, converting the format of streaming video files, generating an identification tag, etc. Based on its knowledge of the ‘608 Patent and its continued supply of material, non-staple parts of the Viddler system that are not suitable for substantial non-infringing use, Defendant knew that its actions would contribute to and will continue to contribute to direct infringement of the Viddler system by Viddler users.

13. Plaintiff has been damaged by Defendant’s infringement of the ‘608 Patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendant is enjoined from continuing to infringe the ‘608 Patent.

## **COUNT II**

### **(Viddler’s infringement of the ‘302 Patent)**

14. Plaintiff incorporates by reference each of the allegations in paragraphs 1-5 above.

15. On June 11, 2013, the ‘302 Patent, disclosing and claiming a “Sharing Streaming a Video” invention, was duly and legally issued by the United States Patent and Trademark Office.

16. Each claim of the ‘302 Patent is valid and enforceable.

17. Plaintiff VideoShare is the owner of the ‘302 Patent with full rights to pursue recovery of royalties or damages for infringement of such patent, including full rights to recover past and future damages.

18. Since June 11, 2013, Defendant has directly infringed the ‘302 Patent and, unless enjoined, will continue to do so, by making, using, selling, offering for sale infringing products and/or services, without a license or permission from VideoShare. Defendant’s infringing products and services include its products and services for receiving, converting, and sharing streaming video, including those marketed as Viddler.

19. Defendant has actively induced, and will continue to actively induce, users of its infringing products and services to infringe the ‘302 Patent. Users of the Viddler system have directly infringed and continue to directly infringe the ‘302 Patent. Defendant has induced, and continues to induce, the direct infringement of Viddler users by instructing the users (including through, without limitation, instructions on the Viddler website, product documentation, and customer support) to use the Viddler system in an infringing manner. Defendant knew of the ‘302 Patent since June 11, 2013. Based on its knowledge of the ‘302 Patent and its continued instruction of users to use the Viddler system in an infringing manner, Defendant knew that its actions would induce and will continue to induce users of the Viddler system to infringe the ‘302 Patent. As a result of Defendant’s inducement, users of Defendant’s infringing products and services have infringed and continue to infringe the ‘302 Patent.

20. Defendant has contributed to and continues to contribute to the infringement of the ‘302 Patent by the users of its infringing products and services. Users of the Viddler system have directly infringed and continue to directly infringe the ‘302 Patent by using the Viddler system. Defendant has contributed to and continues to contribute to the direct infringement of Viddler users by supplying (in or from the United States) material parts of the Viddler system, including Viddler computer servers that make up in whole or in part the claimed “computer[s]” and “storage device” of the patented ‘302 invention. Defendant knew of the ‘302 Patent since June 11, 2013. Defendant had and has knowledge that the Viddler computer servers are especially made and adapted for use in the infringing Viddler system, are not a staple of commerce, and are not suitable for substantial non-infringing use. In particular, each of the Viddler servers comprising a part of the infringing Viddler system is specifically created and programmed to perform operations that align with the claimed elements of patented invention—for example, receiving advertisements, storing an advertisement, receiving video files, etc. Based on its knowledge of the ‘302 Patent and its continued supply of material, non-staple parts of the Viddler system that are not suitable for substantial non-infringing use, Defendant knew that its actions would contribute to and will continue to contribute to direct infringement of the Viddler system by Viddler users.

21. Plaintiff has been damaged by Defendant’s infringement of the ‘302 Patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the ‘302 Patent.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

- A. A decree preliminarily and permanently enjoining Defendant, its officers, directors, employees, agents, and all persons in active concert with it, from infringing, and contributing to or inducing others to infringe, the '302 Patent and the '608 Patent;
- B. Compensatory damages awarding Plaintiff damages caused by Defendant's infringement of the '302 Patent and the '608 Patent.
- C. Enhancement of Plaintiff's damages pursuant to 35 U.S.C. § 284;
- D. Costs of suit and attorneys' fees;
- E. Pre-judgment interest; and
- F. Such other relief as justice requires.

**DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury of all issues.

Dated: May 28, 2015

Respectfully submitted,

FARNAN LLP

/s/Brian E. Farnan

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