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UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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EDWIN LYDA,

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        Plaintiff,

Civil Action No.

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        vs.

**COMPLAINT FOR PATENT
INFRINGEMENT AND
DEMAND FOR JURY TRIAL**

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CBS INTERACTIVE, INC.

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        Defendant.

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    NOW COMES Plaintiff, Edwin Lyda, ("Lyda") through his attorneys, and files this

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Complaint for Patent Infringement and Demand for Jury Trial against CBS Interactive, Inc.

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("CBS Interactive").

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PARTIES

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    1.   Plaintiff Lyda is an individual residing in the State of Texas.

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    2.   Defendant CBS Interactive, on information and belief, has its headquarters at 235

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        Second Street, San Francisco, CA 94105.

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JURISDICTION AND VENUE

2 3.   This is an action for patent infringement of two patents, United States Patent Nos.

3   7,434,243 (hereinafter "The '243 Patent") and 7,730,506, pursuant to the laws of

4   the United States of America as set forth in Title 35 Sections 271(b) and 281 of

5   the United States Code. This Court has subject matter jurisdiction over this action

6   pursuant to 28 U.S.C. Sec. 1338(a) and 28 U.S.C. Sec. 1331.

7 4.   CBS Interactive resides in this judicial district. Venue is proper in this judicial

8   district under 28 U.S.C. Sec. 1391(b), and Sec.1400(b).

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BACKGROUND

10 5.   From the internet web sites such as http://www.cbsinteractive.com and

11   http://www.cbsinteractive.com/about, CBS Interactive is responsible to its

12   corporate owner, CBS Inc., for providing interactive television shows that allow

13   people in the television audience ("television audience") who are not physically

14   present in the televison studio to vote, or provide comments on issues raised

15   during the interactive television broadcast. Typically, the interactive television

16   shows informs the television audience to use one or more forms of

17   communication a vote or an opinion: by telephone, text message, SMS, tweet,

18   email, an app (such as on a cell phone), or the like. One example of such an

19   interactive television show was the television show entitled, "BIG BROTHER".

20 6.   "BIG BROTHER" was a popular television show featuring a group of strangers

21   living together, and the television audience was allowed to observe the group of

22   strangers so the television audience could see how the strangers interacted with

23   each other, and sometimes, the television audience could observe how the people

24   in the group schemed against each other. From time to time, someone from the

25   group of strangers was voted off the show, and eventually, a person was a winner

26   for surviving the voting process. The winners received cash prizes.

27 7.   Sometimes, the television audience was invited to vote on certain matters such as

28   awarding a prize, or an advantage to one of the people in the group. The

        opportunity for the television audience to vote on matters was very important in

1   marketing the show.

2   8.   In general, the type of interactive television show such as "BIG BROTHER" had

3   the televison audience provide input such as voting several ways: by telephone,

4   text message, SMS, tweet, email, using a cell phone app, or the like. The time

5   period for sending messages was usually limited so the results could be shared

6   with the television audience. People sending the messages had to use a code to

7   identify the destination of the vote. The code was provided by CBS Interactive.

8   Typically, the message sent by a person making a vote, included a vote selection

9   by the sender, and a code identifying the sender such as a name or a set of

10   numbers. If a cell phone were used, the cell phone used by the sender to send the

11   message need not be owned by the sender; however, the message sent included an

12   identification of the cell phone used which implied the identification of the

13   sender. CBS Interactive used electronic equipment to receive the messages from

14   television audience voters. The point of collecting votes was to determine the

15   results of the voting by the television audience voting, and display the results

16   close to real time. In order to minimize repeated votes from the same person (or

17   equipment), it was prudent to consider an embedded code in the sent message

18   identifying the sending equipment being used by the television audience voting.

19   This information was used to inhibit repeated votes from the same equipment.

20   Thus, CBS Interactive used equipment to received messages for votes to

21   determine the content of the vote by the sender, such as the destination of the vote

22   was intended such as a vote in favor, the opinion being communicated if relevant,

23   and the identification of the device used to send the vote. The front end of the

24   electronic equipment receiving the message for CBS Interactive was similar to a

25   cell phone receiver, or a telephone answering system, and additional electronic

26   equipment processed the received message to classify the vote contents of the

27   message according to predetermined parameters. Thereafter, the votes in the

28   messages were processed to compile them and possibly to combine them with

         votes made using other receiving systems to produce a running accumulated vote

1   distribution close to real time. It was desirable to make the results of all of the

2   voting made public to enhance interest with the television audience. Typically,

3   CBS Interactive provides an award to the person in the group with the most votes,

4   or the "survivor" of the ordeal.

5   9.   CBS Interactive was sued by Lyda on August 15, 2104 in the Southern District of

6   New York on the same patents herein and the Complaint included the two

7   asserted patent claims herein: claim 8 of the '243 Patent and claim 1 of the '506

8   Patent. An attorney for CBS Interactive made and appearance on October 22,

9   2014, and eventually, the case was dismissed under Fed. R. Civ. P. 12; however,

10   the lawsuit provided an affirmative notice of the aforementioned patent claims

11   and the fact that the activities disclosed in the earlier Complaint constituted patent

12   infringement of both patents. The issue of validity or infringement was not raised

13   as a defense by CBS Interactive.

14   10.   CBS Interactive, however, continued its broadcasting of "BIG BROTHER",

15   thereby inducing of infringement of the aforementioned patents by conducting

16   most of the steps of method claims and inducing the television audience to

17   become direct infringers. CBS Interactive itself reported the direct infringement

18   of the aforementioned patents by inviting its television audience to "vote" as

19   outlined above and reporting the results of the "voting".

20   11.   **INFRINGEMENT CHARTS FOR INFRINGED PATENT CLAIMS**

21   The following are infringement charts for the television show "BIG BROTHER";

22   however, the scope of the patent infringement is not intended to be limited to only

23   this televison show of CBS Interactive:

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Claim 8 of the '243 Patent	**Television Show "BIG BROTHER"**
A method for receiving and processing responses to a program selected from the group consisting of a radio broadcast, a television broadcast, an internet broadcast, a satellite communication, an audio tape, a	The television show, "BIG BROTHER" was broadcasted. In simple terms, the television show, allows the television audience to monitor the activities of a group of people at all times so the audience can observe the

video tape, and a live performance, the method comprising:	activities of the people, and hear conversations between the people. At various times members of the television audience not in the televison studio were invited to vote on various questions and issues by sending a message to a specific destination. This step is due to CBS Interactive
providing program identifier code for the program;	During the broadcasting of "BIG BROTHER", the television audience was provided with a program identifier code for the program so messages to the program were routed correctly to the specific destination. This step is due to CBS Interactive.
providing means for identifying an audience member;	The device and method of sending a message by a member of the television audience automatically provides an identification of the device which is inherently identifies the user. This step is due to the person sending the message.
providing a user input device other than a personal computer, the device operating without receiving signals eliciting a response by the audience member;	Typically, the member of the television audience used his or her own device such as a cell phone, or borrowed another person's device. This step is due to the person sending the message.
having the audience member input the program identifier code into the user input device;	The member of the television audience desiring to send a vote to "BIG BROTHER", needed to input a program identifier into the device so that the message went to the

	specific destination.
	This step is due to the person sending the message.
having the audience member input the responses into the user input device;	The member of the television audience needed to input a response into the device so the message sent to the specific destination would show the members response.
	This step is due to the person sending the message.
transmitting response data comprising the program identifier code, the means for identifying an audience member, and the responses over a standard communication system, wherein the standard communication system utilizes telephone lines and equipment and the response data is transmitted by having the user input device call a pre-assigned telephone number associated with the input response data;	The member of the television audience sent the message to the specific destination and that message included the program identifier code so it went to the correct destination, the identifier of the member (actually the device used), and the response of the member. The transmission of the message was done using a standard communication system by having the device "call" a pre-assigned telephone number or the equivalent.
	This step is due to the person sending the message.
collecting the response data at a central location;	The point of inviting responses on the television program, "BIG BROTHER" is to present the results of "voting" to the televison audience to increase interest. Hence, responses were collected.
	This step is due to CBS Interactive.
correlating the program identifier code to the responses; [and]	For the process of determining the results of the "voting", it was necessary to correlate the

	program identifier code in the responses.
	This step is due to CBS Interactive.
processing the response data.	In order to see and display the results of the "voting" by the television audience, it was necessary to process the response data.
	This step is due to CBS Interactive.

Claim 1 of the '506 Patent	Television Show "BIG BROTHER"
A method for receiving and processing responses to a program comprising:	The television show, "BIG BROTHER" was broadcasted. In simple terms, the television show, allows the television audience to monitor the activities of a group of people at all times so the audience can observe the activities of the people, and hear conversations between the people. At various times members of the television audience not in the televison studio were invited to vote on various questions and issues by sending a message to a specific destination. This step is due to CBS Interactive.
providing a program identifier code for the program;	During the broadcasting of "BIG BROTHER", the television audience was provided with a program identifier code for the program so messages to the program were routed correctly to the specific destination. This step is due to CBS Interactive.
providing means for identifying an audience member;	The device and method of sending a message by a member of the television audience

	automatically provides an identification of the device which inherently identifies the user. This step is due to the person sending the message.
providing a user input device not requiring a personal computer, the device configured to allow the audience member to send response data directly from the user input device over a standard communication system in response to the program received apart from the device, the device operating without receiving program data;	Typically, the member of the television audience used his or her own device such as a cell phone, or borrowed another person's device. The member of the television audience sent the message to the specific destination and that message included the program identifier code so it went to the correct destination, the identifier of the member (the device used), and the response of the member. The transmission of the message is done using a standard communication system by having the device "call" a pre-assigned telephone number or the equivalent. This step is due to the person sending the message.
having the audience member input the program identifier code into the user input device;	The member of the television audience desiring to send a vote to "BIG BROTHER", needed to input a program identifier into the device so that the message went to the specific destination. This step is due to the person sending the message.
having the audience member input responses to the program received apart from the device	The member of the television audience needed to input a response into the device so

into the user input device;	the message sent to the specific destination would show the members response. This step is due to the person sending the message.
transmitting response data comprising the program identifier code, the means for identifying an audience member, and the responses over the standard communication system;	The member of the television audience sent the message to the specific destination and that message included the program identifier code so it went to the correct destination, the identifier of the member (the device used), and the response of the member. The transmission of the message is done using a standard communication system by having the device "call" a pre-assigned telephone number or the equivalent. This step is due to the person sending the message.
collecting the response data at a central location;	The point of inviting responses on the television program, "BIG BROTHER" is to present the results of "voting" to the televison audience to increase interest. Hence, responses were collected. This step is due to CBS Interactive.
correlating the program identifier code to the responses; [and]	For the process of determining the results of the "voting", it was necessary to correlate the program identifier code in the responses. This step is due to CBS Interactive.
processing the response data.	In order to see and display the results of the "voting" by the television audience, it was necessary to process the response data.

	This step is due to CBS Interactive.

CAUSES OF ACTION FOR PATENT INFRINGEMENT

12. On October 7, 2008, the '243 Patent entitled "RESPONSE APPARATUS METHOD AND SYSTEM", was duly and legally issued to Edwin Lyda, as the sole patentee.

. On June 1, 2010, the '506 Patent entitled "METHOD AND APPARATUS FOR RESPONSE SYSTEM", was duly and legally issued to Edwin Lyda, as the sole patentee.

13. Lyda is the sole owner of both the '243 Patent, and the '506 Patent, and has standing to bring this action.

COUNT ONE FOR THE '243 PATENT

14. Lyda repeats and incorporates herein the allegations contained in paragraphs 1 through 13 above.

15. CBS Interactive had affirmative notice of claim 8 of the '243 Patent, and the intention of Lyda to enforce his rights under that patent. Nevertheless, CBS Interactive continued to induce patent infringement by continuing to broadcast interactive televison shows such as the television show, "BIG BROTHER".

16. CBS Interactive encouraged and knew that the television audience of "BIG BROTHER" would carry out the additional steps necessary to become direct infringers.

17. CBS Interactive publicly showed that it succeeded in inducing direct patent infringement of the '243 Patent by members of its television audience by showing the results of "voting".

COUNT TWO FOR THE '506 PATENT

18. Lyda repeats and incorporates herein the allegations contained in paragraphs 1 through 13 above.

19. CBS Interactive had affirmative notice of claim 8 of the '506 Patent, and the intention of Lyda to enforce his rights under that patent. Nevertheless, CBS

1   Interactive continued to induce patent infringement by continuing to broadcast

2   interactive televison shows such as the television show, "BIG BROTHER".

3   20.   CBS Interactive encouraged and knew that the television audience of "BIG

4   BROTHER" would carry out the additional steps necessary to become direct

5   infringers.

6   21.   CBS Interactive publicly showed that it succeeded in inducing direct patent

7   infringement of the '506 Patent by members of its television audience by showing

8   the results of "voting".

9   **COUNT THREE FOR THE '243 PATENT**

10   22.   Lyda repeats and incorporates herein the allegations contained in paragraphs 1

11   through 21 above.

12   23.   CBS Interactive willfully induced infringement of the '243 Patent and is liable as

13   a willful infringer.

14   **COUNT FOUR FOR THE '506 PATENT**

15   24.   Lyda repeats and incorporates herein the allegations contained in paragraphs 1

16   through 21 above.

17   25.   CBS Interactive willfully induced infringement of the '506 Patent and is liable as

18   a willful infringer.

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1   **JURY DEMAND**

2   26.   Pursuant to Fed. R. Civ. P. 38, Plaintiff Lyda hereby demands a jury trial as to all

3   issues in this lawsuit.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lyda respectfully requests this Court to:

a.   enter judgment for Plaintiff Lyda on this Complaint against Defendant CBS Interactive as to the '243 Patent;

b.   enter judgment for Plaintiff Lyda on this Complaint against Defendant CBS Interactive as to the '506 Patent;

c.   enter judgment for Plaintiff Lyda determining that Defendant CBS Interactive willfully induced infringement of the '243 Patent;

d.   enter judgment for Plaintiff Lyda determining that Defendant CBS Interactive willfully induced infringement of the '506 Patent;

e.   order that an accounting be had for the damages caused to the Plaintiff Lyda by the infringing activities of the Defendant CBS Interactive;

f.   award Plaintiff Lyda interest and costs against Defendant CBS Interactive;

g.   find that Defendant CBS Interactive is a willful infringer and liable for treble damages; and

h.   award Plaintiff Lyda such other and further relief as this Court may deem just and equitable.

THE PLAINTIFF
EDWIN LYDA

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