

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

BLACKBIRD TECH LLC d/b/a
BLACKBIRD TECHNOLOGIES,

Plaintiff,

v.

STARZ ENTERTAINMENT, LLC,

Defendant.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blackbird Tech LLC d/b/a Blackbird Technologies (“Blackbird Technologies”) hereby alleges for its Complaint for Patent Infringement against Defendant STARZ Entertainment, LLC (“STARZ”) on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

THE PARTIES

1. Plaintiff Blackbird Technologies is a Delaware limited liability company with its principal place of business located at 200 Baker Avenue, Suite 203, Concord, Massachusetts 01742.

2. On information and belief, Defendant STARZ is a Colorado corporation with a place of business located at 8900 Liberty Circle, Englewood Colorado, 80112.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code §§ 100, *et seq.*

4. Subject-matter jurisdiction over Blackbird Technologies' claims is conferred upon this Court by 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1338(a) (patent jurisdiction).

5. This Court has personal jurisdiction over STARZ because STARZ is subject to specific jurisdiction in Delaware. STARZ has also established minimum contacts with this forum. STARZ regularly conducts business in Delaware, including by marketing, selling, and/or offering for sale subscriptions to its movie and TV episodes library (the "STARZ Service") through Delaware residents' cable and/or satellite subscriptions or direct-to-consumer through its website, www.starz.com, which is accessible throughout the United States, including Delaware. The STARZ Service is also accessible from an app for iOS and Android devices that includes an option to download movies and TV episodes for offline viewing (the "STARZ App"). The STARZ App is advertised through the STARZ website, and is available throughout the United States, including Delaware. STARZ has also specifically promoted the STARZ Service in this district directly or through various cable and/or satellite TV providers. *See, e.g.*, <http://verizonspecials.com/fios/de> (advertising Verizon Fios package offer for Delaware residents that can include the STARZ Service for 12 months). The exercise of personal jurisdiction comports with STARZ's right to due process because, as described above, STARZ has purposefully availed itself of the privilege of conducting activities within Delaware such that it should reasonably anticipate being haled into court here. As alleged herein, acts by STARZ in this district have caused injury to Blackbird Technologies.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and § 1400(b) at least because STARZ transacts business within this district and has committed acts in this district that infringe U.S. Patent No. 7,174,362.

U.S. PATENT NO. 7,174,362

7. U.S. Patent No. 7,174,362 (the “’362 patent” or “patent-in-suit”) entitled, “Method and System for Supplying Products from Pre-Stored Digital Data in Response to Demands Transmitted via Computer Network,” was duly and legally issued by the U.S. Patent and Trademark Office on February 6, 2007. Blackbird Technologies is the owner by assignment of all right, title, and interest in and to the ’362 patent, including all right to recover for any and all infringement thereof. The ’362 patent is valid and enforceable. A true and correct copy of the ’362 patent is attached as Exhibit A.

8. Claim 2 of the ’362 patent recites, for example, a computer-implemented method of digital data duplication whereby requests are processed by a computer over a network. The computer comprises modules configured to execute the requests: A first module configured to create a task log based on incoming requests; a second module configured to store all available digital data for duplication, which comprises an expandable indexed archive of digital data, and a resource file for an output device; and a third module configured to retrieve requested digital data, download the data to an output device, and command the output device to transfer the data onto media.

9. Claim 10 of the ’362 patent recites, for example, a computer-implemented method of digital data duplication whereby requests are processed by a computer over a network. The computer comprises modules configured to execute the requests: A first module configured to create a task log based on incoming requests; a second module configured to store all available digital data for duplication; and a third module configured to retrieve requested digital data, download the data to an output device, and command the output device to transfer the data onto media. The storage capacity remaining in an output device is tracked.

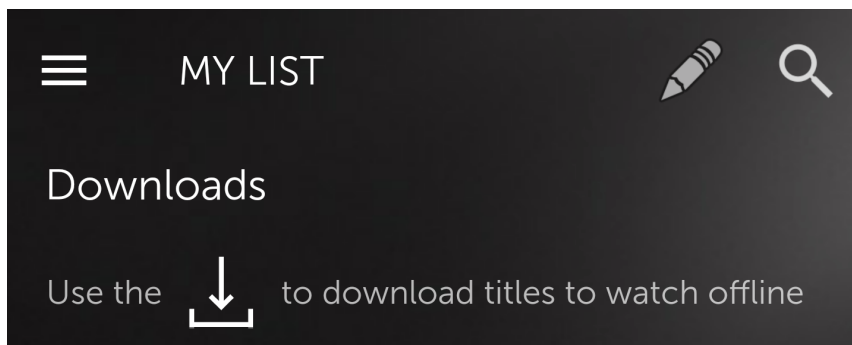
COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,174,362

10. Blackbird Technologies reasserts and incorporates by reference Paragraphs 1 through 9 of this Complaint as if fully set forth herein.

11. The STARZ App enables STARZ Service subscribers to download certain movies and TV episodes to their mobile device for offline viewing. *See, e.g.*, STARZ FAQ for Download, STARZ, <https://www.starz.com/settings/faq> (“What is this download feature? You can now download most movies and series to your device and watch them offline.”).

12. STARZ stores an expandable indexed archive of movies and TV episodes, certain of which are available for download to a mobile device with the STARZ App. *See, e.g.*, STARZ App on Google Play, <https://play.google.com/store/apps/details?id=com.bydeluxe.d3.android.program.starz> (“New movies and original series are added every week, giving you more choice and greater options.”).

13. STARZ takes download requests from the STARZ App upon selection of a download icon. For example:



(STARZ App for Android.)

How do I download a movie or episode?

While you are on the description page of the movie or episode you want to download, simply tap the download icon (looks like an arrow pointing to an inbox). Downloads do take up space on your device so make sure you have enough room.

The title will download over your cell connection if a Wi-Fi connection is not available so you might want to be sure you are connected to Wi-Fi (or select Wi-Fi only in the Application Preference menu under Settings).

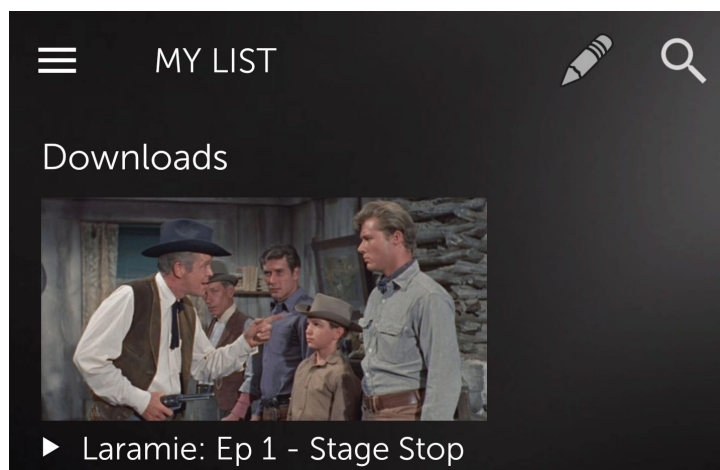
The downloaded file, as well as a progress bar while it is downloading, are located on your My List. Simply select the STARZ menu, then My List.

You can view downloaded titles whenever you want but, if you are offline:

- Open the app
- You will be prompted to reconnect or stay offline. Select Stay Offline
- You can then select view downloads
- Then click on the title you wish to play

(STARZ FAQ for Download, STARZ, <https://www.starz.com/settings/faq>.)

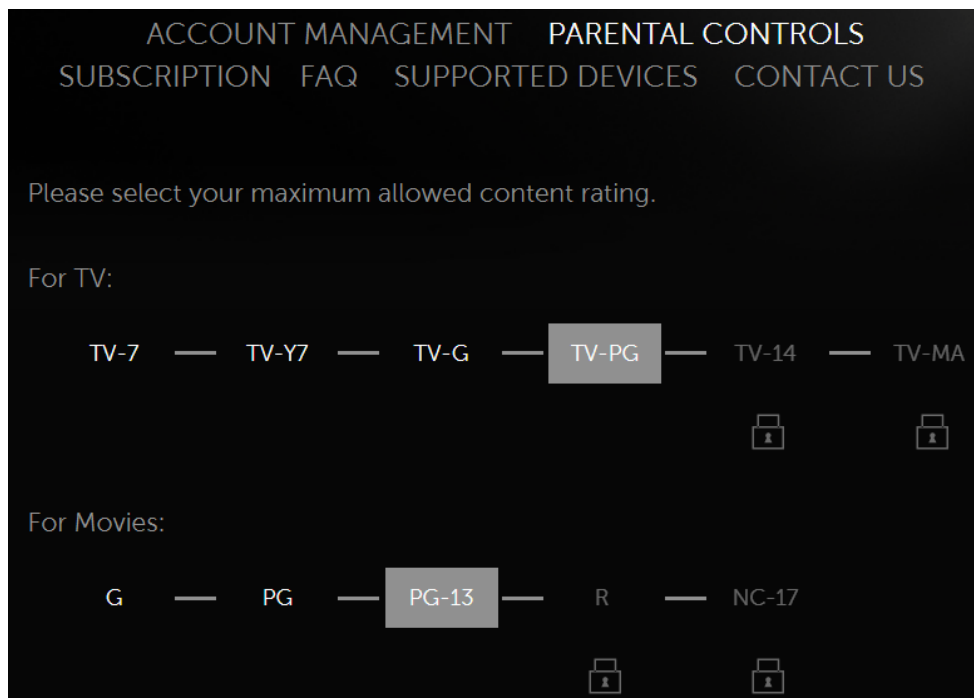
14. After STARZ processes a STARZ Service subscriber's download request from the STARZ App, the requested movie or TV episode is stored on that STARZ Service subscriber's mobile device such that it can be viewed offline:



(screenshot from STARZ App for Android (showing option to play downloaded TV episode).)

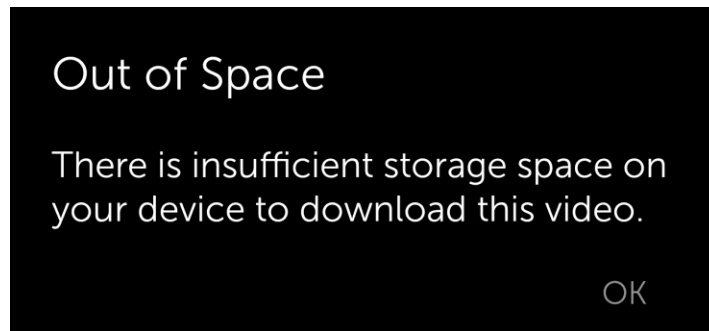
15. STARZ creates a task log based on incoming download requests as evidenced by, for example, the downloaded movie or TV episode’s identification on a STARZ Service subscriber’s “My List” page, *see supra* at ¶ 14, and the collection of various information by STARZ relating to a STARZ Service subscriber’s usage of the STARZ Service. *See* STARZ Privacy Policy (Rev. Dec. 5, 2016) at § 1.2.3 (“An embedded script is programming code used to collect information about how you interact with the Service, Site, Content, and Features. The embedded script is temporarily downloaded onto your device from a Starz or third party web server and is active only while you are connected to the Service, Site, Content, and Features. A web beacon is a small graphic image or programming code that may be included in our web pages and email messages.”), *available at* <https://www.starz.com/privacypolicy>.

16. STARZ maintains information associated with the STARZ Service subscriber’s mobile device, including for example any download limitations:



(Parental Controls, STARZ, <https://www.starz.com/settings/parentalcontrols> (screenshot from “Parental Controls” page for logged in STARZ Service subscriber).)

17. STARZ tracks the storage capacity remaining in the STARZ Service subscriber's mobile device:



(messages displayed on STARZ App for Android after a queued STARZ Service download request causes the total size of the pending downloads to exceed the mobile device's available storage space).

18. Therefore, STARZ, pursuant to 35 U.S.C. § 271(a), has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, one of more claims of the '362 patent, including at least claims 2 and 10.

Damages

19. Blackbird Technologies has sustained damages as a direct and proximate result of Defendant's infringement of the '362 patent.

20. As a consequence of Defendant's past infringement of the '362 patent, Blackbird Technologies is entitled to the recovery of past damages in the form of, at a minimum, a reasonable royalty.

21. As a consequence of Defendant's continued and future infringement of the '362 patent, Blackbird Technologies is entitled to royalties for its infringement of the '362 patent on a going-forward basis.

PRAYER FOR RELIEF

WHEREFORE, Blackbird Technologies respectfully requests that this Court enter judgment against Defendant, as follows:

A. Adjudging that Defendant has infringed at least claims 2 and 10 of the '362 patent literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a);

B. An award of damages to be paid by Defendant adequate to compensate Blackbird Technologies for Defendant's past infringement and any continuing or future infringement up until the date such judgment is entered, and in no event less than a reasonable royalty, including interest, costs, and disbursements pursuant to 35 U.S.C. § 284;

C. Ordering Defendant to continue to pay royalties to Blackbird Technologies for infringement of the '362 patent on a going-forward basis;

D. Adjudging that this case be exceptional under 35 U.S.C. § 285 and awarding enhanced damages, including costs and attorneys' fees, to Blackbird Technologies;

E. Awarding Blackbird Technologies pre-judgment and post-judgment interest at the maximum rate permitted by law on its damages; and

F. Granting Blackbird Technologies such further relief as this Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Blackbird Technologies demands a trial by jury on all claims and issues so triable.

Dated: February 1, 2017

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