

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

HERTL MEDIA, LLC,

Plaintiff,

vs.

COMCAST CORPORATION

Defendant.

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Case No:

PATENT CASE

COMPLAINT

Plaintiff Hertl Media, LLC (“Plaintiff” or “Hertl”) files this Complaint against Comcast Corporation (“Defendant” or “Comcast”) for infringement of United States Patent No. 9,324,365 (hereinafter “the ‘365 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with its office address at 5900 S Lake Forest Dr, Ste 300, McKinney, TX 75070.

4. On information and belief, Defendant is a Pennsylvania corporation with a principal place of business at One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania 19103. Its registered agent is CT Corporation System, 2001 Market St, 5th Floor,

Philadelphia, PA 19103.

5. This Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

VENUE

7. Venue is proper in this District pursuant to 28 U.S.C. §1400(b) because acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District. For instance, Defendant has a Comcast service center located at 22513 Tomball Pkwy, Suite 109, Houston, TX 77070, an XFINITY Store by Comcast at 2616 S Voss Rd, Houston, TX 77057 and an XFINITY Store by Comcast located at 7844 W. Tidwell Ste 130, Houston, TX 77040. On information and belief, Defendant has other regular and established places of business in this District.

COUNT I

(INFRINGEMENT OF UNITED STATES PATENT NO. 9,324,365)

8. Plaintiff incorporates paragraphs 1 through 7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq.*

10. Plaintiff is the owner by assignment of the '365 Patent with sole rights to enforce the '365 Patent and sue infringers.

11. A copy of the '365 Patent, titled "Multi-Language Buffering During Media

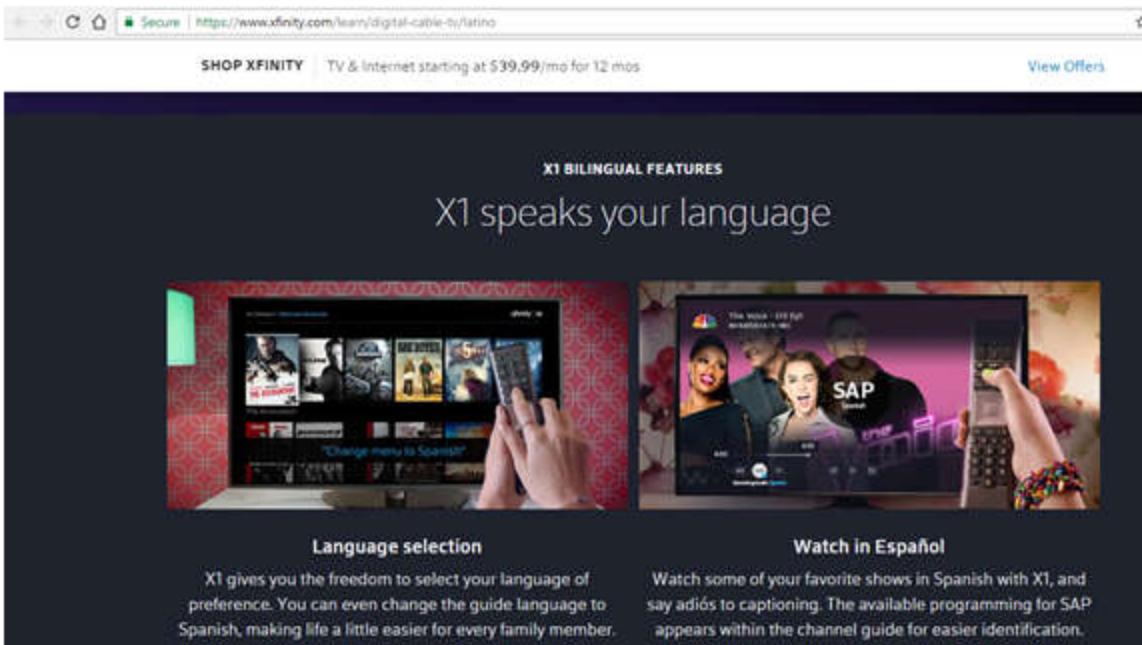
Playback,” is attached hereto as Exhibit A.

12. The ‘365 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

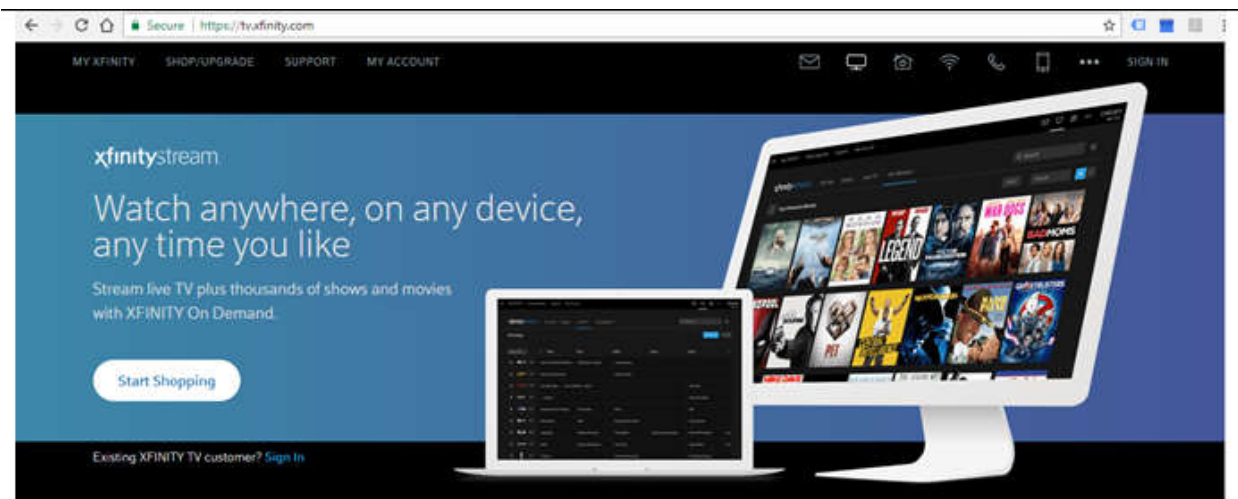
13. On information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claims 1, 2, 4, 6, 7, 8, 10, 11, 12, 13, and 15 of the ‘365 Patent by making, using, importing, selling, and/or offering for sale a data processor for processing a data stream including audio and video data, which is covered by at least Claims 1, 2, 4, 6, 7, 8, 10, 11, 12, 13, and 15 of the ‘365 Patent. Defendant has infringed and continues to infringe the ‘365 Patent directly in violation of 35 U.S.C. § 271.

14. Defendant, sells, offers to sell, and/or uses a data processor for processing a data stream including audio and video data including, without limitation, the processor(s) used in connection with Defendant’s Prime Video service, and any similar products (“Product”), which infringes at least Claims 1, 2, 4, 6, 7, 8, 10, 11, 12, 13, and 15 of the ‘365 Patent.

15. The Product is a data processor for processing a data stream comprising audio and video data. For example, the Product provides a streaming media, video-on-demand and/or digital TV service which streams media content on users’ computers, TVs, video players and/or set top boxes. Further, the Product includes an input buffer configured to buffer the data stream. For example, when users stream video content from the service (including but not limited to on-demand video content), the Product’s video player and/or set top box buffers the data stream using an input buffer. Certain aspects of this element are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



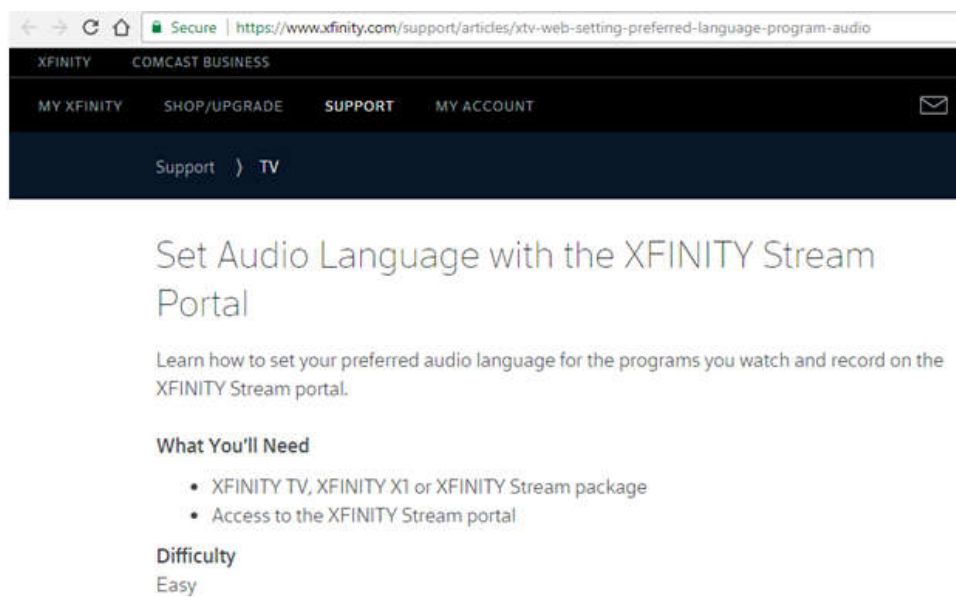
Source: <https://www.xfinity.com/learn/digital-cable-tv/latino>



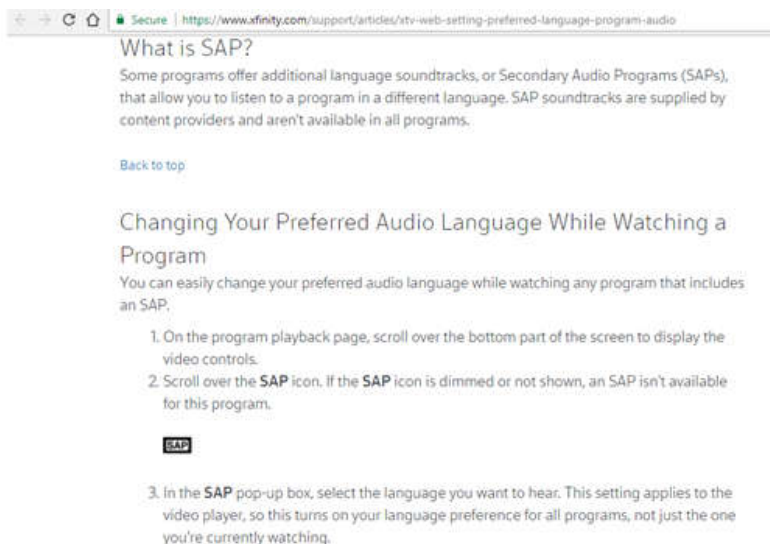
Source: https://my.xfinity.com/?CMP=ILC_myxfinity_resi-help-and-support_re

16. The Product provides a data stream analyzer programmed and configured to analyze the data stream to find information on a plurality of language-specific contents in different languages. For example, the service includes “Multi-Language” support, wherein the Product allows users to switch between different audio languages. On information and belief, for videos that contain multiple language audio tracks, the Product’s video player and/or set

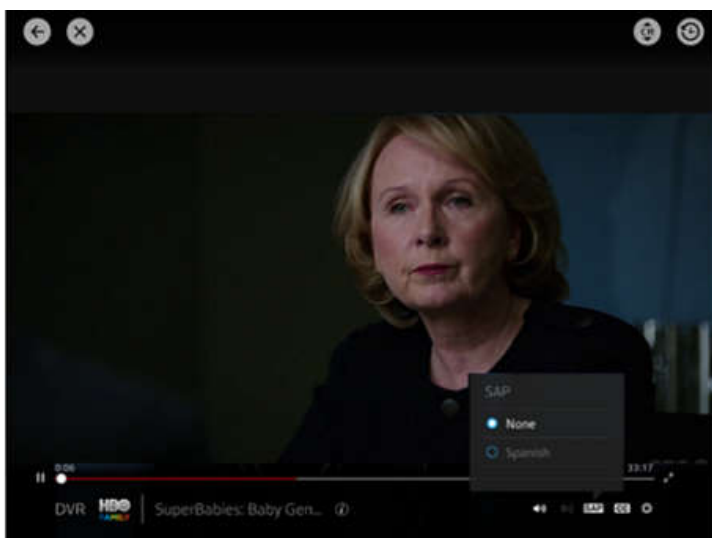
top box analyzes the data stream to find information such as language name and packet data related to the plurality of language-specific audio tracks. Further, the Product also allows users to switch subtitles in one language to subtitles in a different language. On information and belief, for videos that contain multiple language subtitles, the Product analyzes the data stream to find information such as subtitles and the timestamps at which the language-specific subtitles are to be displayed. Certain aspects of this element are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



Source: <https://www.xfinity.com/support/articles/xtv-web-setting-preferred-language-program-audio>



Source: <https://www.xfinity.com/support/articles/xtv-web-setting-preferred-language-program-audio>



That's it! Now whenever you watch a program that offers an SAP in your preferred language, you'll hear that language.

Source: <https://www.xfinity.com/support/articles/xtv-web-setting-preferred-language-program-audio>

17. In addition the Product provides a queuing buffer configured to queue a plurality of parallel queues, each queue including only references to language-specific contents in the same distinct language, wherein the reference point to input buffer items in the input buffer. For example, when a user streams a video that contains multiple audio tracks, the Product uses a queuing buffer to queue each of the audio language tracks in a respective parallel queue. The language-specific queues are parallel since the Product allows a user to

switch between languages even while a video is playing, in which case the video does not restart but simply continues in the new language. Further, when a user streams a video that contains subtitles in multiple languages, the Product uses a queuing buffer to queue subtitles corresponding to each of the languages in a respective parallel queue. The language-specific queues are parallel since the Product allows a user to switch between languages even while the video is playing – in which case the video does not restart but simply continues displaying subtitles in the new language. Certain aspects of this element are illustrated in the screen shots provided in connection with other allegations herein.

18. The Product provides a feeder programmed and configured to extract the references to language-specific contents from a selected queue in accordance with a language selection signal and to feed the extracted references to the language-specific contents to subsequent data processing stages, wherein the references to the language-specific contents in a non-selected queue are not fed to the subsequent data processing stages. For example, the Product extracts packet data related to the language-specific audio tracks from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language audio track is playable at any given time, the packet data related to languages not selected by the user are not fed for playback. Further, the Product extracts packet data related to the language-specific subtitles from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language for subtitles is selectable at any given time, the packet data related to languages not selected by the user are not fed for playback. Certain elements of this limitation are illustrated in the screenshots referenced in connection with other elements herein.

19. The Product provides the claimed data processor for processing a data stream comprising audio and video data wherein at least one of the input buffer, the data stream analyzer, the queuing buffer, and the feeder comprises a hardware implementation. For example, the input buffer, the data stream analyzer, the queuing buffer, and the feeder are implemented in hardware such as computers, TV video players and/or set top boxes.

20. Regarding Claim 2, the Product provides the data processor according to Claim 1, wherein the data stream originates from one of an optical disk, a magnetic disk, a hard drive, a network, a Digital Versatile Disk, and a Blu-ray disk. For example, the data stream provided by the Product from at least a network (such as the Comcast Xfinity head-end in its TV network or Comcast Xfinity website connected via the Internet).

21. Regarding, Claim 4, the Product provides the data processor according to Claim 1, further comprising a data stream decrypter upstream of the data stream analyzer. On information and belief, the Product encrypts its video content before it is delivered to the user computer, TV, video player and/or set top box in order to prevent unauthorized access to the content. Accordingly, the Product includes a data stream decrypter which decrypts the packet data received from Comcast before the data analyzer analyzes the data stream to determine language-specific information in the data stream.

22. Regarding Claim 10, the Product provides the data processor according to Claim 1, wherein the language-specific content is one of an audio stream, a subtitle, a presentation graphic, an interactive graphic, and a credits section of an audio and video presentation. For example, in the case of Comcast Xfinity, the language-specific content is an audio stream and/or a subtitle.

23. Regarding Claim 11, the Product performs and induces others to perform a

method for processing a data stream comprising audio and video data. For example, the Product provides video-on-demand and/or digital TV services which stream media content on users' computers, TVs, video players and/or set top boxes. Further, the Product provides an input buffer configured to buffer the data stream. For example, when users stream video content from the Product's service (including but not limited to on-demand video content), the Product buffers the data stream using an input buffer.

The Product performs and induces others to perform the step of analyzing the data stream to find information on a plurality of language-specific contents in different languages. For example, the Product's service includes "Multi-Language" support, which allows users to switch between different audio languages. On information and belief, for videos which contain multiple language audio tracks, the Product's video player and/or set top box analyzes the data stream to find information such as language name and packet data related to the plurality of language-specific audio tracks. Further, the Product also allows users to switch subtitles in one language to subtitles in a different language. On information and belief, for videos which contain multiple language subtitles, the Product analyzes the data stream to find information such as subtitles and the timestamps at which the language-specific subtitles are to be displayed.

The Product performs and induces others to perform the step of appending information regarding a particular language-specific content to a queue of a plurality of parallel queues, the information in each queue including only references to language-specific content in the same language, the information regarding the particular language-specific content being appended to a parallel queue of the same distinct language, wherein the references point to input buffer items in the input buffer. For example, when users stream a video that contains multiple audio

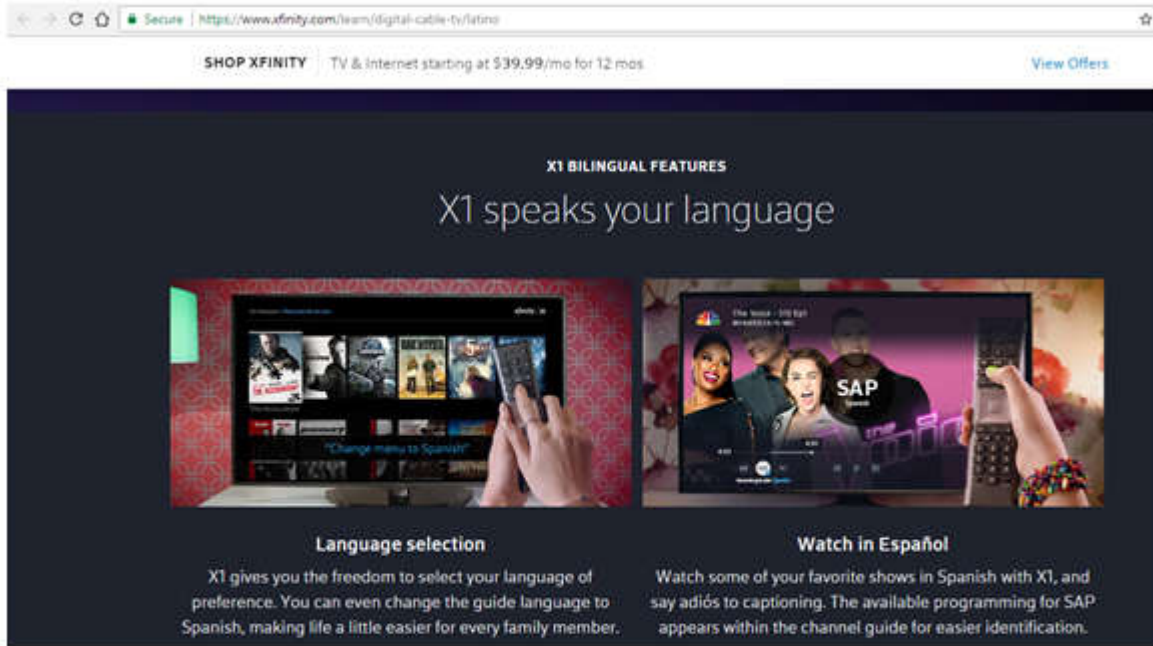
tracks, the Product's video player and or set top box uses a queuing buffer to queue each of the audio language tracks in a respective parallel queue. The language-specific queues are parallel since the Product allows users to switch between languages even while the video is playing, in which case the video does not restart but simply continues in the new language. Further, when users stream a video that contains subtitles in multiple languages, the Product uses a queuing buffer to queue subtitles corresponding to each of the languages in a respective parallel queue. The language-specific queues are parallel since the Product allows users to switch between languages even while the video is playing, in which case the video does not restart but simply continues displaying subtitles in the new language.

The Product performs and induces others to perform the step of retrieving the references to the language-specific content from a parallel queue selected in accordance with a currently valid language selection signal. For example, the Product's video player and/or set top box extracts packet data related to the language-specific audio tracks from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language audio track is playable at any given time, the packet data related to languages not selected by the user are not fed for playback. Further, the Product extracts packet data related to the language-specific subtitles from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language for subtitles is selectable at any given time, the packet data related to languages not selected by the user are not fed for playback.

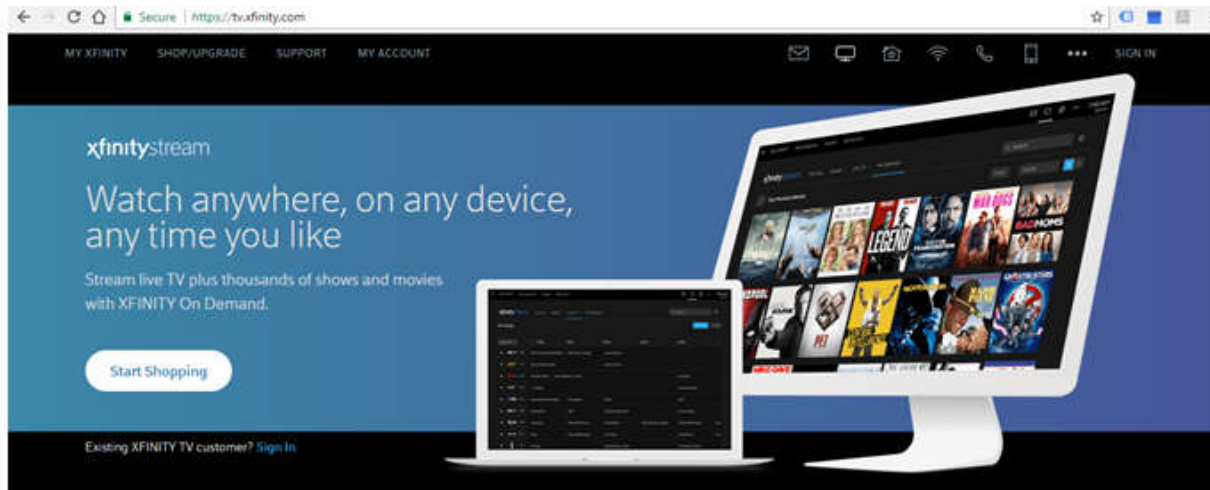
The Product performs and induces others to perform the step of feeding the retrieved references to the language-specific content to a subsequent processing stage, wherein the

references to the language-specific content of a non-selected parallel queue are not fed to the subsequent processing stage. For example, the Product's video player and/or set top box extracts packet data related to the language-specific audio tracks from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language audio track is playable at any given time, the packet data related to languages not selected by the user are not fed for playback. Further, the Product extracts packet data related to the language-specific subtitles from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language for subtitles is selectable at any given time, the packet data related to languages not selected by the user are not fed for playback.

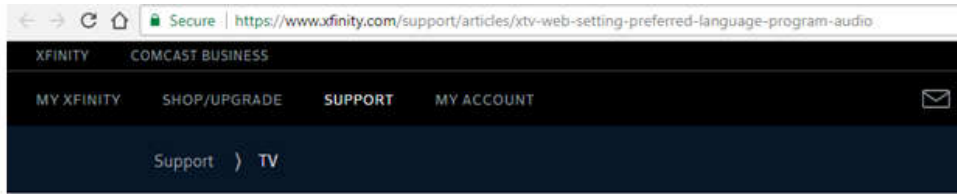
Certain elements of this Claim are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein. Certain elements of this Claim are also discussed above in connection with the allegations concerning Claim 1.



Source: <https://www.xfinity.com/learn/digital-cable-tv/latino>



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Set Audio Language with the XFINITY Stream Portal

Learn how to set your preferred audio language for the programs you watch and record on the XFINITY Stream portal.

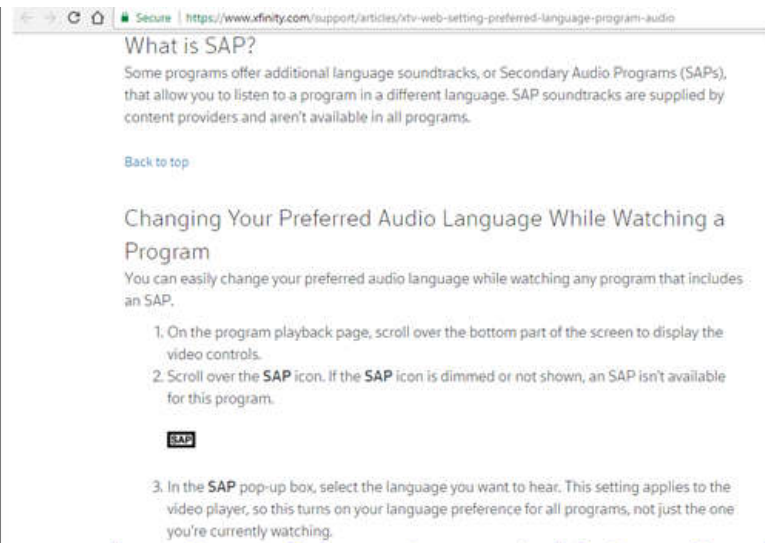
What You'll Need

- XFINITY TV, XFINITY X1 or XFINITY Stream package
- Access to the XFINITY Stream portal

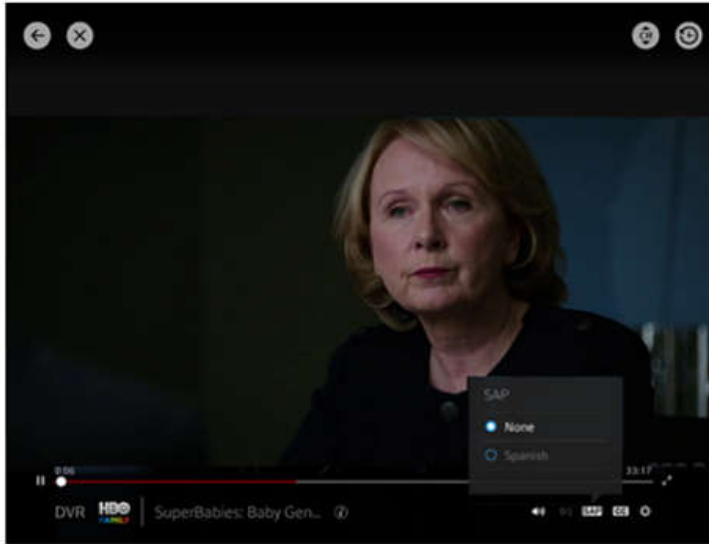
Difficulty

Easy

Source: <https://www.xfinity.com/support/articles/xtv-web-setting-preferred-language-program-audio>

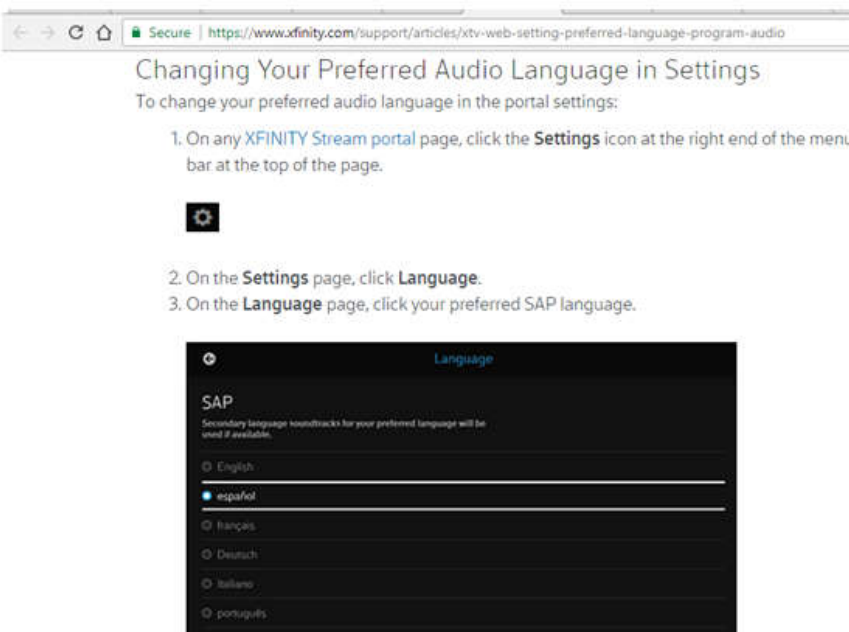


Source: <https://www.xfinity.com/support/articles/xtv-web-setting-preferred-language-program-audio>



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Source: <https://www.xfinity.com/support/articles/xtv-web-setting-preferred-language-program-audio>

24. Regarding Claim 15, the Product provides a non-transitory computer readable digital storage medium comprising stored thereon a computer program code for performing, when running on a computer, a method for processing a data stream comprising audio and

video data. The Product includes processors and other hardware, as well as software, for performing the functionality recited in Claim 15. The functionality itself is discussed above in connection with Claims 1 and 11 and is illustrated in the screen shots provided in connection with those claims and/or other allegations herein.

25. Defendant's actions complained of herein will continue unless Defendant is enjoined by this court.

26. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

27. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;

(b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 7,069,546 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

(c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;

(d) Award Plaintiff pre-judgment and post-judgment interest and costs; and

(e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: June 22, 2018

Respectfully submitted,

/s/ Jay Johnson

JAY JOHNSON

State Bar No. 24067322

D. BRADLEY KIZZIA

State Bar No. 11547550

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ATTORNEYS FOR PLAINTIFF

EXHIBIT A