

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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BROADSIGN INTERNATIONAL, LLC,	:	
	:	
Plaintiff,	:	Civil Action No.: 1:16-cv-04586 (LTS)
	:	
v.	:	
	:	
T-REX PROPERTY AB,	:	
	:	
Defendant.	:	
	x	

SECOND AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

1. Plaintiff, BroadSign International, LLC (“BroadSign”), brings this action for a declaratory judgment against Defendant, T-Rex Property AB (“T-Rex”). BroadSign seeks, among other things, a declaratory judgment of non-infringement and invalidity of U.S. Patent No. RE39,470 (“the ’470 patent”) (attached hereto as Exhibit 1); U.S. Patent No. 7,382,334 (“the ’334 patent”) (attached hereto as Exhibit 2); and U.S. Patent No. 6,430,603 (“the ’603 patent”) (attached hereto as Exhibit 3); (collectively, the “Patents-in-Suit”), and that BroadSign has intervening rights with respect to the ’470 patent. In support thereof, BroadSign alleges as follows:

NATURE OF THE ACTION

2. This is an action for a declaratory judgment of non-infringement and invalidity of the ’470 patent, the ’334 patent, and the ’603 patent, and for intervening rights to the ’470 patent.

THE PARTIES

3. Plaintiff is a Delaware limited liability company with its principal place of business located at 453 N. Lindbergh Blvd. St. Louis, Missouri 63141. BroadSign is an industry

leader in the business of providing digital out-of-home software and solutions for digital signage and displays in venues such as airports, cinemas, shopping malls and offices.

4. Upon information and belief, Defendant T-Rex is a company organized and existing under the laws of Sweden.

5. Upon information and belief, T-Rex's business is directed to owning and enforcing in litigation the Patents-in-Suit. Upon information and belief, over the last several years, T-Rex has filed approximately 59 patent infringement lawsuits against 80 defendants in 17 judicial districts throughout the United States. Upon information and belief, T-Rex does not itself manufacture or sell any products or offer for sale any products or services in the United States.

JURISDICTION AND VENUE

6. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§2201, et seq., and under the Patent Laws of the United States, as enacted under Title 35 of the United States Code. This Court has jurisdiction over this action pursuant to 35 U.S.C. §§ 271, et seq., and 28 U.S.C. §§ 1331, 1338, 2201, and 2202.

7. This Court has both general and specific personal jurisdiction over T-Rex because T-Rex regularly conducts its enforcement and licensing business in New York State. T-Rex has also conducted business in and directed at New York pertaining to the Patents-in-Suit. T-Rex has at least conducted business in New York by filing suit in this forum state in an attempt to enforce the Patents-in-Suit. T-Rex most recently filed suit in the United States District Court for the Southern District of New York on February 1, 2016, asserting these same three Patents-in-Suit in an action against Blue Outdoor Holdings, LLC and its subsidiaries (*T-Rex Property AB v. Blue Outdoor LLC*, et. al., 1-16-cv-00733-DLC). T-Rex has filed numerous other suits asserting one or more of these patents in the United States District Court for the Southern District of New

York located including the following: *T-Rex Property AB, v. Adspace Networks, Inc.*, 1-15-cv-09073-DLC, filed on November 18, 2015 ('470 patent and '334 patent); *T-Rex Property AB, v. Interactivation Health Networks, LLC, et al.*, 1-15-cv-08259-PKC, filed on October 20, 2015 ('470 patent); *T-Rex Property AB, v. Wellness Network, LLC*, 1-15-cv-07847-PKC, filed on October 5, 2015 ('470 patent); and *T-Rex Property AB, v. Captivate, LLC*, 1-15-cv-04188-PAE, filed on May 29, 2015 ('470 patent and '334 patent).

8. Venue is proper in this Court under 28 U.S.C. § 1391 (b) and 1391(c) because T-Rex is subject to personal jurisdiction in this judicial district and has conducted business in this judicial district. Additionally, T-Rex has accused at least two of BroadSign's customers (Blue Outdoor Holdings and Adspace Networks) of patent infringement through their use of BroadSign's products in this judicial district, and such products are being used in this judicial district.

A SUBSTANTIAL CONTROVERSY EXISTS BETWEEN THE PARTIES

9. Upon information and belief, T-Rex is the assignee and owner of the right, title and interest in and to the Patents-in-Suit, including the right to assert all causes of action arising under the Patents-in-Suit and the right to any remedies for infringement.

10. Upon information and belief, the business of T-Rex in the United States is to enforce one or more of the Patents-in-Suit against operating businesses that provide information, advertising, medical information and other content on digital displays over a digital signage network in locations that are accessible to the public such as at airports, in elevators, in shopping malls and at medical facilities (hereinafter referred to as "Digital Content Providers").

11. BroadSign is a supplier of hardware and software solutions to operators of networks of digital displays. BroadSign's platform includes an interface for managing a network of BroadSign Players associated with the digital displays, and among other things, upload

desired content, book and manage advertising campaigns and monitor network health. The BroadSign Players organize the content based on booked advertising campaigns and enable content to be played on the associated digital displays.

12. As a supplier of digital out-of-home media products to the digital advertising industry, Plaintiff is under threat of litigation because T-Rex's aggressive litigation strategy involves asserting the Patents-in-Suit against both customers and suppliers. T-Rex has filed complaints alleging patent infringement of the Patents-in-Suit against suppliers similarly-situated to BroadSign, including suppliers of digital out-of-home media software and/or hardware. T-Rex has filed complaints against BroadSign's direct-competitor suppliers, including at least: Barco, Inc., Prismview, LLC (A Samsung Electronics Company), Table Top Media, LLC, Clear Channel Outdoor Holdings, Inc., GPS Industries, LLC, Quality Systems Technology, Inc., Four Winds Interactive, LLC, AutoNetTV Media, Inc., Cardinal Health, Inc., Zoom Media Corp., ANC Sports Enterprises, LLC, iPort Media Networks, LLC, Reach Sports Marketing Group, Inc., RMG Networks Holding Corporation, and Time-O-Matic d/b/a Watchfire.

13. Each of these suppliers has supplied software and/or hardware products to advertising customers in the digital out-of-home media space, and T-Rex's complaints allege infringement of the Patents-in-Suit against those products.

14. In its complaint against Barco, Inc., T-Rex alleged that the "infringing devices and systems include Defendant's digital signage network that employs Barco's digital signage platform, including its digital displays, digital media players, and DISplay Studio software platform." *T-Rex Property AB v. Barco, Inc.*, Case No. 1:16-cv-6938 (N.D. Ill. July 1, 2016); *T-Rex Property AB v. Barco, Inc.*, Case No. 1:16-cv-6940 (N.D. Ill. July 1, 2016). Barco's "digital signage network that employs Barco's digital signage platform, including its digital displays,

digital media players, and DISplay Studio software platform” makes it a direct competitor in the same industry as BroadSign.

15. In its complaint against Prismview, LLC (A Samsung Electronics Company), T-Rex alleged that “the infringing devices and systems include Defendant’s digital signs, other electronic displays and its PrismView digital signage software and systems that are used to control the display of images on its digital sign(s) and other electronic display(s).” *T-Rex Property AB v. Prismview, LLC*, Case No. 4:16-cv-00404 (E.D. Tex. June 16, 2016). Prismview’s “digital signage software and systems that are used to control the display of images on its digital sign(s) and other electronic display(s)” make it a direct competitor in the same industry as BroadSign.

16. In its complaint against Table Top Media, LLC, T-Rex alleged that “the infringing devices and systems include Defendant’s digital signage network and displays that use the Android OS based digital signage platform.” *T-Rex Property AB v. Table Top Media, LLC*, Case No. 1:16-cv-6932 (N.D. Ill. July 1, 2016). Table Top Media’s “digital signage network and displays that use the Android OS based digital signage platform” make it a direct competitor in the same industry as BroadSign.

17. In its complaint against Clear Channel Outdoor Holdings, Inc., T-Rex alleged that “the infringing devices and systems include Clear Channel’s digital advertising network and the Clear Channel Airports digital media and advertising network, which is also marketed as the ClearVision Network and/or the ClearVision Airport Television Network.” *T-Rex Property AB v. Clear Channel Outdoor Holdings, Inc. et al*, Case No. 6:16-cv-00974 (E.D. Tex. June 30, 2016); *T-Rex Property AB v. Clear Channel Outdoor Holdings, Inc.*, Case No. 5:12-cv-01162 (N.D. Tex. Dec. 11, 2012). Clear Channel Outdoor’s “digital advertising network and the Clear

Channel Airports digital media and advertising network, which is also marketed as the ClearVision Network and/or the ClearVision Airport Television Network” make it a direct competitor in the same industry as BroadSign.

18. In its complaint against GPS Industries, LLC, T-Rex alleged that “the infringing devices and systems include Defendant’s Visage Media Network.” *T-Rex Property AB v. GPS Industries, LLC*, Case No. 4:16-cv-00458 (E.D. Tex. June 30, 2016). GPS Industries’s “Visage Media Network” make it a direct competitor in the same industry as BroadSign.

19. In its complaint against Quality Systems Technology, Inc., T-Rex alleged that “the infringing devices and systems include Defendant’s digital signage network, including its digital signage platform, displays, and Quest Player software.” *T-Rex Property AB v. Quality Systems Technology, Inc.*, Case No. 1:16-cv-6942 (N.D. Ill. July 1, 2016). Quality Systems Technology’s “digital signage network, including its digital signage platform, displays, and Quest Player software” make it a direct competitor in the same industry as BroadSign.

20. In its complaint against Four Winds Interactive, LLC, T-Rex alleged that “the infringing devices and systems include Defendant’s digital signage network and displays that use FWI’s Content Manager and FWI’s Content Player Software.” *T-Rex Property AB v. Four Winds Interactive, LLC*, Case No. 1:16-cv-6934 (N.D. Ill. July 1, 2016). Four Winds Interactive’s “digital signage network and displays that use FWI’s Content Manager and FWI’s Content Player Software” make it a direct competitor in the same industry as BroadSign.

21. In its complaint against AutoNetTV Media, Inc., T-Rex alleged that “the infringing devices and systems include Defendant’s digital network that uses 1-2-1 VIEW’s content management software.” *T-Rex Property AB v. AutoNetTV Media, Inc.*, Case No. 1:16-

cv-6649 (N.D. Ill. July 1, 2016). AutoNetTV Media’s “digital network that uses 1-2-1 VIEW’s content management software” make it a direct competitor in the same industry as BroadSign.

22. In its complaint against Cardinal Health, Inc., T-Rex alleged that “the infringing devices and systems include Defendant’s Pharmacy Health Network.” *T-Rex Property AB v. Cardinal Health, Inc.*, Case No. 1:16-cv-5484 (N.D. Ill. May 23, 2016). Cardinal Health’s “Pharmacy Health Network” makes it a direct competitor in the same industry as BroadSign.

23. In its complaint against Zoom Media Corp., T-Rex alleged that “the infringing devices and systems include Defendant’s Zoom Fitness Video Network, which includes...digital signage.” *T-Rex Property AB v. Zoom Media Corp.*, Case No. 0:16-cv-581 (N.D. Ill. March 21, 2016). Zoom Media’s “Zoom Fitness Video Network, which includes...digital signage” make it a direct competitor in the same industry as BroadSign.

24. In its complaint against ANC Sports Enterprises, LLC, T-Rex alleged that “the infringing devices and systems include Defendant’s digital media software, signage operation and control systems, which include integrated digital signage, and media management and playback software that is used to broadcast dynamic images” and “vSOFT, Defendant’s proprietary media management and playback software.” *T-Rex Property AB v. ANC Sports Enterprises, LLC*, Case No. 0:16-cv-581 (D. Minn. March 7, 2016). ANC Sports Enterprises’s “digital media software, signage operation and control systems, which include integrated digital signage, and media management and playback software that is used to broadcast dynamic images” and “vSOFT, Defendant’s proprietary media management and playback software” make it a direct competitor in the same industry as BroadSign.

25. In its complaint against iPort Media Networks, LLC, T-Rex alleged that “the infringing devices and systems include Defendant’s digital place-based media networks that

operate under the iPort Optical Network and the Your Life Your Skin Network branding.” *T-Rex Property AB v. iPort Media Networks, LLC*, Case No. 1:16-cv-1583 (N.D. Ill. Jan. 29, 2016). iPort Media Networks’s “digital place-based media networks” make it a direct competitor in the same industry as BroadSign.

26. In its complaint against Reach Sports Marketing Group, Inc., T-Rex alleged that “the infringing devices and systems include Defendant’s digital place-based media network.” *T-Rex Property AB v. Reach Sports Marketing Group, Inc.*, Case No. 0:16-cv-070 (D. Minn. Jan. 13, 2016). Reach Sports Marketing Group’s “digital place-based media network” make it a direct competitor in the same industry as BroadSign.

27. In its complaint against RMG Networks Holding Corporation, T-Rex alleged infringement of the Patents-in-Suit because “content management systems, which include, for example and without limitation, the Symon Design Studio to manage and schedule broadcast content for display in its corporate headquarters in Texas at least during certain demonstrations for customers or for prospective customers.” *T-Rex Property AB v. RMG Networks Holding Corporation*, Case No. 3:15-cv-738 (N.D. Tex. March 5, 2015). RMG Networks Holding’s “content management systems, which include, for example and without limitation, the Symon Design Studio to manage and schedule broadcast content for display...for customers or for prospective customers” make it a direct competitor in the same industry as BroadSign.

28. In its complaint against Time-O-Matic (d/b/a Watchfire), T-Rex alleges that Watchfire’s “digital display boards that operate on a digital information system through its Ignite software, user manuals, and other documents that instruct customers” to infringe the Patents-in-Suit. *T-Rex Property AB v. Time-O-Matic, LLC*, Case No. 1:14-cv-1488 (C.D. Ill. Dec. 23,

2014). Watchfire's "digital display boards that operate on a digital information system through its Ignite software" make it a direct competitor in the same industry as BroadSign.

29. To date, at least seven (7) BroadSign customers who are Digital Content Providers have been sued by T-Rex for patent infringement on one or more of the Patents-in-Suit. One of those customers, Health Media Network, LLC ("HMN"), was sued on May 27, 2016, in the United States District Court for the Northern District of Illinois in an action entitled *T-Rex Property AB v. Health Media Network, LLC*, Case No. 1:16-cv-05673 (hereinafter, the "HMN Action"). A copy of the complaint in the HMN Action is annexed hereto as Exhibit 4. In the HMN Action, T-Rex accuses BroadSign's customer of infringing the '470 patent and identifies the allegedly infringing devices and systems as the defendant's "digital health media advertising network." The accused "digital health media advertising network" which T-Rex claims to infringe the '470 patent is the product that BroadSign sold and delivered to HMN. HMN has no other platform provider for its "digital health media network."

30. In the HMN Action, HMN has also been accused by T-Rex of infringing the '334 patent (Exh. 4 at 16). Again, T-Rex identifies HMN's "digital health media advertising network" provided to HMN by BroadSign as the allegedly infringing product. HMN has no other platform provider for its "digital health media network."

31. In the HMN Action, HMN has also been accused by T-Rex of infringing the '603 patent (Exhibit 4 at 18). Again, T-Rex identifies HMN's "digital health media advertising network" provided to HMN by BroadSign as the allegedly infringing product. HMN has no other platform provider for its "digital health media network."

32. In another action filed by T-Rex against a BroadSign customers ContextMedia Inc. and ContextMedia Health, LLC, on July 11, 2016 in the United States District Court for the

Northern District of Illinois, Case No. 1:16-cv-04826 (the "ContextMedia Action"), T-Rex accuses the defendants' "Digital Waiting Room Screen" product of infringing the '470 Patent, the '334 Patent and the '603 Patent. A copy of the Amended Complaint in the ContextMedia Action is attached hereto as Exhibit 5. The ContextMedia defendants have no other platform provider for its "Digital Waiting Room Screen" product other than the BroadSign platform.

33. In the ContextMedia Action, T-Rex set forth its basis for alleging that ContextMedia infringes the '470 Patent, the '334 Patent, and the '603 Patent by comparing each of the limitations of at least one claim of each patent to the Digital Waiting Room Screen product, which includes BroadSign components and software (the BroadSign Player). *See* Exhibit 5 at 15-18.

34. For example, in the ContextMedia Action, T-Rex alleged that each of the limitations of claim 25 of the '470 Patent are met by BroadSign's software within the Digital Waiting Room Screen product in the form of a prose claim chart.

35. Claim 25 of the '470 Patent (Exhibit 1) recites:

A method of selectively displaying digital information at one or more of a plurality of locations, said method comprising:

receiving control instructions from at least one external information mediator;

using said control instructions to generate an exposure list, said exposure list specifying three or more of the following items:

- i) what information content is to be displayed;
- ii) at which of said plurality of locations said information content is to be displayed;
- iii) when said information content is to be displayed for each location at which content is to be displayed; and

iv) how long said information content is to be displayed for each location at which content is to be displayed

displaying images at one or more of said locations in accordance with said exposure list;

and

permitting said exposure list to be dynamically updated.

36. T-Rex alleged that the Digital Waiting Room Screen product meets the first limitation of claim 25 of the '470 Patent: "receives control instructions from at least one external information mediator." *See*, Exhibit 5 at ¶ 50. While BroadSign disputes the ultimate issue of whether its components meet this limitation, the functionality identified by T-Rex that allegedly meets this claim limitation is provided by BroadSign's software components within the Digital Waiting Room Screen product (i.e. the BroadSign Player). T-Rex alleged that the Digital Waiting Room Screen product meets the second limitation of claim 25 of the '470 Patent: "generate an exposure list, with said exposure list specifying three or more of the following items: i) what information content is to be displayed; ii) at which of the plurality of locations the information content is to be displayed; iii) when the information content is to be displayed for each location at which content is to be displayed; and iv) how long the information content is to be displayed for each location at which content is to be displayed." *See*, Exhibit 5 at ¶ 51. T-Rex further alleged that the Digital Waiting Room Screen product meets this limitation by using "smart playlist technology [to curate] programming that is customized to each office according to its specific patient population." *See*, Exhibit 5 at ¶ 51. While BroadSign disputes the ultimate issue of whether its components meet this limitation, the functionality identified by T-Rex that allegedly meets this claim limitation is provided by BroadSign's

software components within the Digital Waiting Room Screen product (i.e. the BroadSign Player).

37. T-Rex alleged that the Digital Waiting Room Screen product meets the third limitation of claim 25 of the '470 Patent: “displays images at one or more of said locations in accordance with the exposure list.” *See*, Exhibit 5 at ¶ 52. T-Rex further alleged that the Digital Waiting Room Screen product meets this limitation by delivering “condition-specific content to patients while they wait.” *See*, Exhibit 5 at ¶ 52. While BroadSign disputes the ultimate issue of whether its components meet this limitation, the functionality identified by T-Rex that allegedly meets this claim limitation is provided by BroadSign’s software components within the Digital Waiting Room Screen product (i.e. the BroadSign Player).

38. T-Rex alleged that the Digital Waiting Room Screen product meets the fourth and final limitation of claim 25 of the '470 Patent: “permit[] the exposure list to be dynamically updated.” *See*, Exhibit 5 at ¶ 53. T-Rex further alleged that the Digital Waiting Room Screen product meets this limitation because “content is refreshed daily and sent to screens based on patient demographic data.” *See*, Exhibit 5 at ¶ 53. While BroadSign disputes the ultimate issue of whether its components meet this limitation, the functionality identified by T-Rex that allegedly meets this claim limitation is provided by BroadSign’s software components within the Digital Waiting Room Screen product (i.e. the BroadSign Player).

39. T-Rex has also alleged in an element by element textual claim chart that each limitation of claim 22 of the '334 Patent is met by BroadSign’s Digital Waiting Room Screen product. *See*, Exhibit 5 at ¶¶ 63-75. While BroadSign disputes the ultimate issue of whether its components meet these limitations, the functionality identified by T-Rex that allegedly meets

these claim limitations is provided by BroadSign's software components within the Digital Waiting Room Screen product (i.e. the BroadSign Player).

40. T-Rex has also alleged in an element by element textual claim chart that each limitation of claims 42 and 43 of the '603 Patent is met by BroadSign's Digital Waiting Room Screen product. *See*, Exhibit 5 at ¶¶ 77-87. While BroadSign disputes the ultimate issue of whether its components meet these limitations, the functionality identified by T-Rex that allegedly meets these claim limitations is provided by BroadSign's software components within the Digital Waiting Room Screen product (i.e. the BroadSign Player).

41. The claim charts set forth as prose in the ContextMedia Amended Complaint are sufficient to support declaratory judgment standing. *Arris Group v. British Telecomm.*, 639 F.3d 1368, 1375, 1381 (Fed. Cir. 2011).

42. BroadSign has knowledge of T-Rex's allegations that the components of the Digital Waiting Room product provided by BroadSign are specially made and adapted to function in a way that meets each limitation of at least one claim of each of the '470, '334, and '603 Patents.

43. In another action filed by T-Rex against BroadSign customers JCDecaux North America Holdings, Inc. and JCDecaux North America, Inc., filed on May 9, 2016, in the United States District Court for the Eastern District of Texas, Case No. 4:16-cv-00303 (the "JCDecaux Action"), T-Rex accused the defendants' products (*i.e.*, "Showscreens, a digital media product that is used in their Mallscape network, Defendants' digital billboards, and Defendants' digital airport advertising network, including their Prestige digital network") of infringing the Patents-in-Suit. BroadSign is a platform provider for the accused JCDecaux products.

44. As a direct result of T-Rex's complaints, customers including ContextMedia and JCDecaux, have sought indemnification from BroadSign.

45. BroadSign knows that its hardware and software solutions, including the BroadSign Player product, is used in HMN's "digital health media advertising network," ContextMedia's "Digital Waiting Room Screen," and JCDecaux's "Showscreens," "Mallscape network," "digital billboards," "digital airport advertising network," and "Prestige digital network." BroadSign works with customers HMN, ContextMedia, and JCDecaux to make its hardware and software solutions (including the BroadSign Player product) and to adapt its hardware and software solutions (including the BroadSign Player product) for use in HMN's "digital health media advertising network," ContextMedia's "Digital Waiting Room Screen," and JCDecaux's "Showscreens," "Mallscape network," "digital billboards," "digital airport advertising network," and "Prestige digital network."

46. BroadSign's hardware and software solutions (including the BroadSign Player portion of the Digital Waiting Room Screen product) (e.g., Exhibit 5 at ¶¶ 50-87) are built to order for its customers.

47. T-Rex has had direct discussions and in-person meetings with BroadSign in which T-Rex has demanded that BroadSign take a license to the Patents-in-Suit in order for T-Rex to stop suing BroadSign's customers for patent infringement. On June 28, 2016, BroadSign and T-Rex met in a meeting room in Landvetter Airport Conference, Gothenberg, Sweden. During that meeting, BroadSign requested that T-Rex agree to dismiss the pending lawsuits against BroadSign's customers and give BroadSign a covenant not to sue that would cover BroadSign and its customers. In the first week of July, 2016, and without prior discussion of a license, Mats Hylin, T-Rex's CEO, sent BroadSign a "Patent Agreement." The agreement

required an unspecified monetary payment in exchange for a license. The agreement expressly provides that one of the purposes for the parties entering into it is so that BroadSign can obtain from T-Rex a covenant not to sue its customers to the extent they operate digital display systems consisting of BroadSign's products. T-Rex assured BroadSign that agreeing to take a license was the only way to protect BroadSign and its customers from litigation and future law suits. BroadSign did not request any sample agreements or any draft or form of license agreement.

48. As a result of (a) the T-Rex lawsuits filed against BroadSign's customers accusing BroadSign's products and services of infringing each of the Patents-in-Suit; (b) the T-Rex lawsuits filed against suppliers similarly-situated to BroadSign accusing those suppliers' products and services of infringing each of the Patents-in-Suit; and (c) the demands by T-Rex that BroadSign take a license to the Patents-in-Suit to prevent further patent infringement actions against BroadSign's customers, there exists a real, immediate and justiciable controversy between T-Rex and BroadSign concerning infringement of sufficient immediacy to warrant the issuance of a declaratory judgment. There exists a real and palpable threat of suit by T-Rex against BroadSign and/or against additional BroadSign customers arising from their use of BroadSign's products. This threat is real and not idle. Not only has T-Rex demanded that BroadSign take a license to the Patents-in-Suit and has brought suits against its customers, but .in addition T-Rex has brought suits against BroadSign's direct competitors in the same industry.

49. T-Rex's actions have placed a cloud over BroadSign and its business and continues to injure BroadSign's business, creating a concrete and immediate justiciable controversy between BroadSign and T-Rex. BroadSign cannot simply stand by while its business suffers irreparable harm to await yet another filing of litigation by T-Rex at a future

date. BroadSign seeks a declaratory judgment so that its business can move forward without the imminent and ever-present threat of litigation.

CAUSES OF ACTION

COUNT ONE

Declaratory Judgment of Non-Infringement of U.S. Patent No. RE39,470

50. BroadSign repeats and reasserts each of the allegations contained in paragraphs 1 through 49 as if fully set forth herein.

51. BroadSign has not directly infringed and does not directly infringe, either literally or under the doctrine of equivalents, any valid and enforceable claim of the '470 patent.

52. BroadSign has not indirectly infringed and does not indirectly infringe any valid and enforceable claim of the '470 patent, either by inducing infringement or contributory infringement.

53. T-Rex has accused BroadSign's products of infringing at least claims 25 and 26 of the '470 patent. Claim 26 depends from claim 25.

54. BroadSign's products do not infringe claim 25 of the '470 patent, and therefore do not infringe any dependent claim of claim 26, for at least the reason that BroadSign's products do not "receiv[e] control instructions from at least one external information mediator" as required by the claim.

55. Accordingly, BroadSign seeks a declaratory judgment pursuant to 28 U.S.C. §§ 2201-02 that no valid and enforceable claim of the '470 patent is infringed by BroadSign.

COUNT TWO

Declaratory Judgment of Non-Infringement of U.S. Patent No. 7,382,334

56. BroadSign repeats and reasserts each of the allegations contained in paragraphs 1 through 49 as if fully set forth herein.

57. BroadSign has not directly infringed and does not directly infringe, either literally or under the doctrine of equivalents, any valid and enforceable claim of the '334 patent.

58. BroadSign has not indirectly infringed and does not indirectly infringe any valid and enforceable claim of the '334 patent, either by inducing infringement or contributory infringement.

59. T-Rex has accused BroadSign's products of infringing at least claims 22 and 32 of the '334 patent.

60. BroadSign's products do not infringe claim 22 of the '334 patent for at least the reason that BroadSign's products do not "us[e] a control center for coordinating and controlling electronic displays." Similarly, claim 32 of the '334 patent is not infringed for at least the reason that BroadSign's products do not have the claimed "computerized control center means."

61. Accordingly, BroadSign seeks a declaratory judgment pursuant to 28 U.S.C. §§ 2201-02 that no valid and enforceable claim of the '334 patent is infringed by BroadSign.

COUNT THREE

Declaratory Judgment of Non-Infringement of U.S. Patent No. 6,430,603

62. BroadSign repeats and reasserts each of the allegations contained in paragraphs 1 through 49 as if fully set forth herein.

63. BroadSign has not directly infringed and does not directly infringe, either literally or under the doctrine of equivalents, any valid and enforceable claim of the '603 patent.

64. BroadSign has not indirectly infringed and does not indirectly infringe any valid and enforceable claim of the '603 patent, either by inducing infringement or contributory infringement.

65. T-Rex has accused BroadSign's products of infringing at least claims 42 and 43 of the '603 patent. Claims 42 and 43 depend from claim 13.

66. BroadSign's products do not infringe claim 13 of the '603 patent, and therefore do not infringe any dependent claim of claim 13, for at least the reason that BroadSign's products do not include the claimed "network interconnecting a plurality of electronic displays provided at various geographic locations."

67. Accordingly, BroadSign seeks a declaratory judgment pursuant to 28 U.S.C. §§ 2201-02 that no valid and enforceable claim of the '603 patent is infringed by BroadSign.

COUNT FOUR

Declaratory Judgment of Intervening Rights with Respect to U.S. Patent No. RE39,470

68. BroadSign repeats and reasserts each of the allegations contained in paragraphs 1 through 49 as if fully set forth herein.

69. The '470 patent is a reissue of U.S. Patent No. 6,005,534 ("the '534 patent").

70. As of January 16, 2007, when the '470 patent reissued, BroadSign was selling the product that has been accused by T-Rex of infringement in lawsuits against BroadSign's customers.

71. Each of the original claims of the '534 patent were amended during reissue.

72. The claims of the '470 patent are not substantially identical to the claims of the '534 patent as originally issued.

73. BroadSign and its customers are entitled to absolute and equitable intervening rights with respect to the '470 patent pursuant to 35 U.S.C. § 252.

74. As a result of the acts described herein, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

75. An actual and justiciable controversy exists between BroadSign and T-Rex as to whether BroadSign has absolute and/or equitable intervening rights. A judicial declaration is necessary and appropriate so that BroadSign may ascertain its rights regarding the '470 patent.

COUNT FIVE

Declaratory Judgment of Invalidity with Respect to U.S. Patent No. RE39,470

76. BroadSign repeats and reasserts each of the allegations contained in paragraphs 1 through 49 as if fully set forth herein.

77. As a result of the acts described herein, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

78. The claims of the '470 patent are invalid for failing to meet one or more of the requirements and/or conditions for patentability under various sections of the United States Code, including without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112. For example, upon information and belief, claim 1 is unpatentable as anticipated under 35 U.S.C. § 102(a) by Japanese Patent Application Heisei 07-168544 by Nakamura ("Nakamura"). For example, upon information and belief, claim 4 is unpatentable under 35 U.S.C. § 103(a) as obvious over Nakamura in view of U.S. Patent Number 5,740,549 to Reilly ("Reilly"). For example, upon information and belief, claim 4 is unpatentable under 35 U.S.C. § 103(a) as obvious over Nakamura in view of U.S. Patent Number 5,566,353 to Cho ("Cho"). For example, upon information and belief, claim 1 is unpatentable under 35 U.S.C. § 101 as being directed to an impermissible abstract idea. *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014). For example, claim 26 is unpatentable under 35 U.S.C. § 112 as an improper means-plus-function claim and as indefinite.

79. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Counterclaimant is entitled to judgment from this Court that the '470 patent is not valid.

COUNT SIX

Declaratory Judgment of Invalidity with Respect to U.S. Patent No. 7,382,334

80. BroadSign repeats and reasserts each of the allegations contained in paragraphs 1 through 49 as if fully set forth herein.

81. As a result of the acts described herein, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

82. The claims of the '334 patent are invalid for failing to meet one or more of the requirements and/or conditions for patentability under various sections of the United States Code, including without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112. For example, upon information and belief, claim 1 is unpatentable as anticipated under 35 U.S.C. § 102(a) by Japanese Patent Application Heisei 07-168544 by Nakamura ("Nakamura"). For example, upon information and belief, claim 4 is unpatentable under 35 U.S.C. § 103(a) as obvious over Nakamura in view of U.S. Patent Number 5,740,549 to Reilly ("Reilly"). For example, upon information and belief, claim 22 is unpatentable under 35 U.S.C. § 103(a) as obvious over Nakamura in view of U.S. Patent Number 5,566,353 to Cho ("Cho"). For example, upon information and belief, claim 1 is unpatentable under 35 U.S.C. § 101 as being directed to an impermissible abstract idea. *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014). For example, claim 32 is unpatentable under 35 U.S.C. § 112 as an improper means-plus-function claim and as indefinite.

83. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Counterclaimant is entitled to judgment from this Court that the '334 patent is not valid.

COUNT SEVEN

Declaratory Judgment of Invalidity with Respect to U.S. Patent No. 6,430,603

84. BroadSign repeats and reasserts each of the allegations contained in paragraphs 1 through 49 as if fully set forth herein.

85. As a result of the acts described herein, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

86. The claims of the '603 patent are invalid for failing to meet one or more of the requirements and/or conditions for patentability under various sections of the United States Code, including without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112. For example, upon information and belief, claim 1 is unpatentable as anticipated under 35 U.S.C. § 102(a) by Japanese Patent Application Heisei 07-168544 by Nakamura ("Nakamura"). For example, upon information and belief, claim 1 is unpatentable as anticipated under 35 U.S.C. § 102 by U.S. Patent Number 7,382,334 to Hylin or U.S. Patent Number USRE39470 to Hylin. For example, upon information and belief, claim 4 is unpatentable under 35 U.S.C. § 103(a) as obvious over Nakamura in view of U.S. Patent Number 5,740,549 to Reilly ("Reilly"). For example, upon information and belief, claim 23 is unpatentable under 35 U.S.C. § 103(a) as obvious over Nakamura in view of U.S. Patent Number 5,566,353 to Cho ("Cho"). For example, upon information and belief, claim 1 is unpatentable under 35 U.S.C. § 101 as being directed to an impermissible abstract idea. *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014). For example, claim 1 is unpatentable under 35 U.S.C. § 112 as an improper means-plus-function claim and as indefinite.

87. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Counterclaimant is entitled to judgment from this Court that the '603 patent is not valid.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff BroadSign respectfully requests the following relief:

- A. a declaratory judgment that no valid and enforceable claim of the '470 patent is infringed by BroadSign;
- B. a declaratory judgment that no valid and enforceable claim of the '334 patent is infringed by BroadSign;
- C. a declaratory judgment that no valid and enforceable claim of the '603 patent is infringed by BroadSign;
- D. a declaratory judgment that BroadSign has absolute and/or equitable intervening rights pursuant to 35 U.S.C. § 252 with respect to the '470 patent;
- E. a declaratory judgment that the claims of the '470 patent are invalid;
- F. a declaratory judgment that the claims of the '334 patent are invalid;
- G. a declaratory judgment that the claims of the '603 patent are invalid; an order enjoining T-Rex, its officers, directors, agents, counsel, servants and employees, and successors in interest and assigns, all persons in active concert or participation with any of them, from alleging infringement or instituting an action based on infringement of the '470 patent, '334 patent, and '603 patent against BroadSign or any of BroadSign's customers or downstream users of BroadSign's products;
- H. an order declaring that BroadSign is the prevailing party and that this is an exceptional case under 35 U.S.C. § 285 and awarding BroadSign its costs and attorneys' fees in connection with this action; and
- I. such other and further relief as the Court deems just, reasonable and proper.

Dated: July 19, 2018

Respectfully submitted,

BROWN RUDNICK LLP

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