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11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15
16 Scale Video Coding LLC,
17 Plaintiff,
18 v.
19 Brightcove, Inc.,
20 Defendant.

Case No. 2:21-cv-8156

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Scale Video Coding LLC (“Scale Video” or “Plaintiff”), for its
2 Complaint against Defendant Brightcove, Inc., (referred to herein as “Brightcove”
3 or “Defendant”), alleges the following:

4 **NATURE OF THE ACTION**

5 1. This is an action for patent infringement arising under the Patent Laws
6 of the United States, 35 U.S.C. § 1 *et seq.*

7 **THE PARTIES**

8 2. Plaintiff Scale Video is a limited liability company organized under
9 the laws of the State of Delaware with a place of business at 717 N. Union Street,
10 Wilmington, Delaware 19805.

11 3. Upon information and belief, Brightcove is a corporation organized
12 under the laws of the State of Delaware with a place of business at 290 Congress
13 Street Boston, Massachusetts 02210. Upon information and belief, Brightcove
14 sells, offers to sell, and/or uses products and services throughout the United States,
15 including in this judicial district, and introduces infringing products and services
16 into the stream of commerce knowing that they would be sold and/or used in this
17 judicial district and elsewhere in the United States.

18 **JURISDICTION AND VENUE**

19 4. This is an action for patent infringement arising under the Patent Laws
20 of the United States, Title 35 of the United States Code.

21 5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331
22 and 1338(a).

23 6. Venue is proper in this judicial district under 28 U.S.C. § 1400(b).

24 7. This Court has personal jurisdiction over the Brightcove under the
25 laws of the State of California, due at least to their substantial business in
26 California and in this judicial district, directly or through intermediaries, including:
27 (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or

1 soliciting business, engaging in other persistent courses of conduct and/or deriving
2 substantial revenue from goods and services provided to individuals in the State of
3 California. Venue is also proper in this district because Brightcove has a regular
4 and established place of business in this district. For instance, Brightcove has a
5 sales office in this judicial district. For example, Brightcove has a sales office
6 located in Los Angeles, California. (*See, e.g.*,
7 [https://www.brightcove.com/en/company/careers/open-](https://www.brightcove.com/en/company/careers/open-positions?location=Los+Angeles)
8 [positions?location=Los+Angeles](https://www.brightcove.com/en/company/careers/open-positions?location=Los+Angeles) (last accessed Oct. 10, 2021).)

9 **BACKGROUND**

10 **The Invention**

11 8. Erik Van Zijst is the inventor of U.S. Patent No 11,019,372 (“the ’372
12 patent”). A true and correct copy of the ’372 patent is attached as Exhibit A.

13 9. The ’372 patent resulted from the pioneering efforts of Mr. Van Zijst
14 (hereinafter “the Inventor”) in the area of network management. These efforts
15 resulted in the development of a method and apparatus for the management of data
16 packets to support multicasting, or supporting one-to-many communication over
17 the Internet, within the last five years. At the time of these pioneering efforts, the
18 most widely implemented technology used to address network management was to
19 discard data packets that could not be immediately forwarded to the data recipient.
20 In that type of system, the data stream that is eventually received by one or more
21 receivers further down the network is corrupt and the congestion also has a
22 negative impact on communication sessions of other nodes that communicate
23 through the bottleneck router. The Inventor conceived of the inventions claimed in
24 the ’372 patent as a way to send data packets from a data source to more than one
25 receiver, ideally without putting extra stress on the network or source when the
26 number of receivers increases.

27

1 10. For example, the Inventor developed a method whereby receivers tell
2 the network which data streams the receivers want to receive and let the network
3 compute data distribution paths to deliver just the right packets to each receiver.
4 As an additional example, the Inventor developed a method of letting the source
5 encode the list of receivers in each data packet, thereby freeing the network from
6 the potentially computationally intensive task of maintaining multicast distribution
7 paths. As a further example, the Inventor developed a method of relying on logic
8 at the receiver by letting the network apply a broadcast mechanism whereby each
9 packet is delivered to every connected node and letting the receivers filter out only
10 those packets that are interesting.

11 **Advantage Over the Prior Art**

12 11. The patented invention disclosed in the '372 patent, provides many
13 advantages over the prior art, and in particular improved the operations of network
14 routers. (*See* '372 patent at 3:6-10.) One advantage of the patented invention is
15 that routers are given the ability to tell the network which data streams the
16 receivers want to receive and let the network compute data distribution paths to
17 deliver just the right packets to each receiver. (*See* '372 patent at 3:11-15.) Prior
18 to the patented invention, data packets would be discarded if bandwidth
19 bottlenecks prohibited the data packet from being forwarded. By allowing the
20 network to compute distribution paths, the path of the data packet could be
21 adjusted to avoid the bottleneck, allowing the data packet to be forwarded.

22 12. Another advantage of the patented invention is the method of a source
23 delivering data packets to all receivers and allowing the receivers to filter out only
24 the packets needed at the receiver. (*See* '372 patent at 3:20-24.) While this places
25 a heavy initial load on the network, bottlenecks are avoided because the flow of
26 data packets over the distribution paths is constant and the network need not
27 compute different data paths based on the an increase in the number of receivers.

1 13. Because of these significant advantages that can be achieved through
2 the use of the patented invention, Scale Video believes that the '372 patent
3 presents significant commercial value for companies like Brightcove. Indeed,
4 Brightcove's business engages heavily in the transfer of data packets over the
5 Internet on at least a national scale, representing a significant commercial
6 investment for Brightcove.

7 **Technological Innovation**

8 14. The patented invention disclosed in the '372 patent resolves technical
9 problems related to network management, particularly problems related to the
10 utilization of video routers support multicasting data packets. As the '372 patent
11 explains, one of the limitations of the prior art as regards network management was
12 that when a bandwidth bottleneck is reached, a video router discards the packets
13 that cannot immediately be forwarded. This causes two problems. The data stream
14 that is eventually received by one or more receivers further down the network is
15 corrupt and the congestion also has a negative impact on communication sessions
16 of other nodes that communicate through the bottleneck router. (*See* '372 patent at
17 1:59-65.)

18 15. The claims of the '372 patent do not merely recite the performance of
19 some well-known business practice from the pre-Internet world along with the
20 requirement to perform it on the Internet. Instead, the claims of the '372 patent
21 recite inventive concepts that are deeply rooted in engineering technology, and
22 overcome problems specifically arising out of how to manage the transfer of data
23 packets over a network.

24 16. In addition, the claims of the '372 patent recite inventive concepts that
25 improve the functioning of video routers, particularly a video router's ability to
26 communicate with a network or filter data packets transferred over a network to
27 remove unimportant packets.

1 17. Moreover, the claims of the '372 patent recite inventive concepts that
2 are not merely routine or conventional use of data packet management. Instead,
3 the patented invention disclosed in the '372 patent provides a new and novel
4 solution to specific problems related to improving a network's ability to multicast
5 data packets to one or more receivers over a network with limited bandwidth
6 capacity and decreasing the number of data packets discarded when network
7 bandwidth bottlenecks are reached.

8 18. And finally, the patented invention disclosed in the '372 patent does
9 not preempt all the ways that video routers may be used to improve network
10 management, nor does the '372 patent preempt any other well-known or prior art
11 technology.

12 19. Accordingly, the claims in the '372 patent recite a combination of
13 elements sufficient to ensure that the claim in substance and in practice amounts to
14 significantly more than a patent-ineligible abstract idea.

15 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 11,019,372**

16 20. The allegations set forth in the foregoing paragraphs 1 through 19 are
17 incorporated into this First Claim for Relief.

18 21. On May 25, 2021, the '372 patent was duly and legally issued by the
19 United States Patent and Trademark Office under the title “LAYERED
20 MULTICAST AND FAIR BANDWIDTH ALLOCATION AND PACKET
21 PRIORITIZATION”

22 22. Scale Video is the assignee and owner of the right, title and interest in
23 and to the '372 patent, including the right to assert all causes of action arising
24 under said patent and the right to any remedies for infringement of it.

25 23. Upon information and belief, Brightcove has and continues to directly
26 infringe one or more claims of the '372 patent by selling, offering to sell, making,
27 using, and/or providing and causing to be used products, specifically one or more

1 data processing and hosting services, which by way of example include Video
2 Communications Platform, Video Marketing Suite, Marketing Studio, Enterprise
3 Video Suite, Brightcove Virtual Events, CorpTV, Brightcove Beacon, and
4 Zencoder Video Encoding (*See, e.g.*,
5 <https://www.brightcove.com/en/products/online-video-platform/>) (the “Accused
6 Instrumentalities”).

7 24. Upon information and belief, the Accused Instrumentalities performs
8 a method for transmitting video signals.

9 25. Exemplary infringement analysis showing infringement of claims 1, 6,
10 and 11 of the ’372 patent is set forth in Exhibit B. This infringement analysis is
11 necessarily preliminary, as it is provided in advance of any discovery provided by
12 Brightcove with respect to the ’372 patent. Scale Video reserves all rights to
13 amend, supplement and modify this preliminary infringement analysis. Nothing in
14 the attached chart should be construed as any express or implied contention or
15 admission regarding the construction of any term or phrase of the claims of the
16 ’372 patent.

17 26. The Accused Instrumentality infringed and continues to infringe
18 claims 1, 6, and 9 of the ’372 patent during the pendency of the ’372 patent.

19 27. Scale Video has been harmed by the Brightcove’s infringing
20 activities.

21 **JURY DEMAND**

22 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Scale Video
23 demands a trial by jury on all issues triable as such.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff Scale Video demands judgment for itself and
26 against Brightcove as follows:

27 A. An adjudication that the Brightcove has infringed the ’372 patent;

1 B. An award of damages to be paid by Brightcove adequate to
2 compensate Scale Video for Brightcove’s past infringement of the ’372 patent, and
3 any continuing or future infringement through the date such judgment is entered,
4 including interest, costs, expenses and an accounting of all infringing acts
5 including, but not limited to, those acts not presented at trial;

6 C. A declaration that this case is exceptional under 35 U.S.C. § 285, and
7 an award of Scale Video’s reasonable attorneys’ fees; and

8 D. An award to Scale Video of such further relief at law or in equity as
9 the Court deems just and proper.

10
11 Dated: October 13, 2021

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