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

15
16 Scale Video Coding LLC,
17 Plaintiff,
18 v.
19 V-Cube USA, Inc.,
20 Defendant.

Case No. 8:21-cv-01702

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Scale Video Coding LLC (“Scale Video” or “Plaintiff”), for its
2 Complaint against Defendant V-Cube USA, Inc., (referred to herein as “V-Cube”
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, V-Cube is a corporation organized under
12 the laws of the State of Delaware with a place of business at 13950 Milton Ave.,
13 Suite 305, Westminster, California 92683. Upon information and belief, V-Cube
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 V-Cube under the laws
25 of the State of California, due at least to their substantial business in California and
26 in this judicial district, directly or through intermediaries, including: (i) at least a
27 portion of the infringements alleged herein; and (ii) regularly doing or soliciting

1 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 V-Cube has a regular and
4 established place of business in this district. For instance, V-Cube has its principle
5 place of business in this judicial district. For example, V-Cube’s principle place of
6 business is at 13950 Milton Ave., Ste 305, Westminster, California 92683. (*See*,
7 *e.g.*, <https://vcubewebcasting.com/contact/> (last accessed Oct. 10, 2021).)

8 **BACKGROUND**

9 **The Invention**

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

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

26 10. For example, the Inventor developed a method whereby receivers tell
27 the network which data streams the receivers want to receive and let the network

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

9 **Advantage Over the Prior Art**

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

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

26 13. Because of these significant advantages that can be achieved through
27 the use of the patented invention, Scale Video believes that the '372 patent

1 presents significant commercial value for companies like V-Cube. Indeed, V-
2 Cube's business engages heavily in the transfer of data packets over the Internet on
3 at least a national scale, representing a significant commercial investment for V-
4 Cube.

5 **Technological Innovation**

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

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

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

26 17. Moreover, the claims of the '372 patent recite inventive concepts that
27 are not merely routine or conventional use of data packet management. Instead,

1 the patented invention disclosed in the '372 patent provides a new and novel
2 solution to specific problems related to improving a network's ability to multicast
3 data packets to one or more receivers over a network with limited bandwidth
4 capacity and decreasing the number of data packets discarded when network
5 bandwidth bottlenecks are reached.

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

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

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

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

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

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

23 23. Upon information and belief, V-Cube has and continues to directly
24 infringe one or more claims of the '372 patent by selling, offering to sell, making,
25 using, and/or providing and causing to be used products, specifically one or more
26 webcasting and production software, which by way of example include XYVID
27 and XYVID Pro (the “Accused Instrumentalities”).

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

Dated: October 13, 2021

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