

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

INTERTRUST TECHNOLOGIES
CORPORATION, a Delaware corporation,

Plaintiff,

v.

CINEMARK HOLDINGS, INC., a Delaware
corporation,

Defendant.

CIVIL ACTION NO. 2:19-CV-266

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Intertrust Technologies Corporation (“Intertrust” or “Plaintiff”), by and through its undersigned counsel, complains and alleges as follows against Cinemark Holdings, Inc. and Cinemark USA, Inc., Century Theatres, Inc., and CNMK Texas Properties, LLC (together, “Cinemark”):

THE PARTIES

1. Intertrust is a corporation organized under the laws of the State of Delaware, with its principal place of business located at 920 Stewart Drive, Sunnyvale, California 94085.

2. Upon information and belief, Cinemark Holdings, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 3900 Dallas Parkway, Suite 500, Plano, TX 75093.

3. Upon information and belief, Cinemark USA, Inc. is a corporation organized and existing under the laws of Texas with its principal place of business at 3900 Dallas Parkway, Suite 500, Plano, TX 75093. Cinemark USA, Inc. is a wholly owned subsidiary of Cinemark Holdings, Inc.

4. Upon information and belief, Century Theatres, Inc. is a corporation organized and existing under the laws of California with its principal place of business at 3900 Dallas Parkway, Suite 500, Plano, TX 75093. Century Theaters, Inc. is a direct or indirect wholly owned subsidiary of Cinemark Holdings, Inc..

5. Upon information and belief, CNMK Texas Properties, LLC is a limited liability company organized and existing under the laws of Texas with its principal place of business at 3900 Dallas Parkway, Suite 500, Plano, TX 75093. CNMK Texas Properties, L.L.C. is a direct or indirect wholly owned subsidiary of Cinemark Holdings, Inc..

NATURE OF THE ACTION

6. This is a civil action for infringement under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

7. Cinemark infringes Intertrust's U.S. Patent No. 7,340,602, U.S. Patent No. 7,406,603, and U.S. Patent No. 8,931,106 (collectively, "the Asserted Patents"). Intertrust is the legal owner by assignment of the Asserted Patents, which were duly and legally issued by the United States Patent and Trademark Office. Plaintiff seeks injunctive relief and monetary damages.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over the subject matter of this action pursuant to the 28 U.S.C. §§ 1331 and 1338(a).

9. The defendants to this action are properly joined pursuant to 35 U.S.C. § 299.

10. Upon information and belief, this Court has personal jurisdiction over Cinemark in this action because Cinemark has committed acts within this District giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Cinemark would not offend traditional notions of fair play and substantial justice. Cinemark has committed acts of patent infringement and has regularly and systematically conducted and solicited business in this District by and through at least headquarters in this District and its operation of several theaters in this district.

11. Venue is proper in this District under 28 U.S.C. § 1400(b) at least because Cinemark has committed acts of infringement in this District and has regular and established places of business in this District. On information and belief, Cinemark's principal place of business is in this this District at 3900 Dallas Parkway, Suite 500, Plano, TX 75093. Further, on information and belief, Cinemark operates the Cinemark Sherman theaters at 3310 Town Center Street, Sherman TX 75092.

FACTUAL BACKGROUND

B. Intertrust's History and Innovations

12. Intertrust was founded in 1990. Intertrust pioneered digital rights management and developed the architecture to create the trusted computing environment needed for commercially viable digital rights management (DRM). Intertrust's pioneering patented technology enabled distribution of software, music, books, and video over the Internet, and provided for secure processing in a distributed environment.

13. In addition to enabling distribution of protected digital content and software over the Internet, Intertrust's innovations have contributed to a global standard for DRM and interoperability, Marlin DRM. Intertrust has also developed a corresponding suite of software development kits ("SDKs") and services for trusted media asset distribution, including Marlin Client and Server SDKs, Seacert Trust Services, and the Sockeye Cryptography SDK. Content publishers, service providers, device makers, application developers, and system-on-a-chip vendors use Intertrust's Marlin and Sockeye SDKs and Seacert Services to build personalized content distribution products and services for mobile devices, broadband, and Internet TV.

14. More recently, Intertrust invented methods and systems for protecting high-value content, such as original-release commercial motion pictures, when these content assets are distributed to exhibitors, such as commercial movie theaters. This Intertrust technology extends the basic concepts of digital rights management and secure distributed computing to enable the levels of security required by commercial distribution of digital content in which the major

studios have typically invested tens of millions of dollars. The incentives to breach the security of these high-value content assets, the increasing sophistication of hackers, and the potential cost-savings to the cinema industry from digital distribution made Intertrust's new technology important and valuable.

15. Today, Intertrust's culture of innovation continues. Intertrust focuses on the research and development of new technologies in the areas of electronic trust management, privacy protection, database management and governance, and secure media distribution.

C. Intertrust's Asserted Patents

16. Intertrust's asserted patents provide detailed teaching of a security architecture that has been used since 2009 by the cinema industry to securely distribute original-release and other high-value content in digital form.

D. Cinemark's Infringing Technology

17. This Intertrust technology was adopted by the cinema industry through specifications developed and promulgated by an organization named Digital Cinema Initiatives (DCI).

18. The original DCI specification was released in 2005. Widespread distribution of feature films in digital format followed a few years later, and almost all feature films are now distributed digitally, using the DCI specification.

19. Cinemark infringes Intertrust's asserted patents through its use of DCI-compliant equipment suites to show movies and other DCI-compliant content in the movie theaters that it owns and operates.

20. The DCI-compliant equipment suite provides content protection and digital rights management for the content that is shown in such movie theaters.

21. The DCI-compliant equipment suite receives a digital bit stream that comprises both the contents of the Digital Cinema Package (DCP) and the Key Delivery Message (KDM).

22. The DCP comprises encrypted digital content and a Composition Play List (CPL). The digital content is the movie itself – the video and audio tracks that make up the movie that is seen in the movie theater. The CPL is the recipe for the movie in its contracted format – the CPL can combine a large number of different audio and video tracks for a particular screening in a particular market, including different combinations of audio in different languages, video with scene variations, and other variations.

23. The KDM is a digitally signed secure container. The KDM contains encrypted content keys for a CPL, usage parameters for the content keys that comprise temporal, content, and equipment rules for the use of the content keys, and the Trusted Device List (TDL).

24. An Image Media Block (IMB) in the DCI-compliant equipment suite comprises a Security Manager, a Media Decryptor, and a Forensic Marker.

25. If the DCI-compliant equipment suite comprises a linked projector rather than a projector physically integrated to the IMB, the IMB also includes a Link Encryptor.

26. The IMB is a Secure Processing Block that includes a private key for identification of the IMB. The IMB checks the signature of the KDM, opens the KDM upon successful verification of the signature, and enforces certain governance conditions conveyed in the KDM and DCP, and, if a request to play a movie is within the scope of the governance, uses the IMB private key to decrypt the content keys.

27. If the governance conditions associated with each of the content keys are met, then the decrypted content keys are sent by the Security Manager of the IMB to the Media Decryptor, where the keys will be used to decrypt the content. The content will then be then watermarked in the Forensic Marker. If there is a link between the IMB and the Projector, the Link Encryptor will then encrypt the content for decryption at the projector, where the content is projected onto the screen in the movie theater.

28. Cinemark uses the technology of the Asserted Patents in its operation of movie theaters. The Asserted Patents provide the technology necessary for the movie studios or other content providers to trust that the movie theaters will only use the content for authorized

showings and that the movie theaters will not breach the security of the digital copies that have been entrusted to them.

FIRST CAUSE OF ACTION¹
Infringement of Patent No. 7,340,602

29. Plaintiff re-alleges and incorporates by reference each of the allegations in the foregoing paragraphs as though fully set forth herein.

30. Intertrust is the current exclusive owner and assignee of all right, title, and interest in and to U.S. Patent No. 7,340,602 (“the ’602 patent”), titled “Systems and methods for authenticating and protecting the integrity of data streams and other data,” duly and legally issued by the United States Patent and Trademark Office on March 4, 2008, including the right to bring this suit for injunctive relief and damages. A true and correct copy of the ’602 patent is attached to Intertrust’s original complaint as Exhibit D.

31. The ’602 patent is valid and enforceable.

32. Cinemark has directly infringed and is currently directly infringing the ’602 patent by making, using, selling, offering for sale, and/or importing into the United States, without authority, products, methods performed by and/or attributable to equipment, and or services that practice one or more claims of the ’602 patent, including but not limited to DCI-compliant equipment suites, and components thereof, and providing services such as showing movies using DCI-compliant equipment suites (herein the “Infringing Products and Services”).

33. As a non-limiting example, Cinemark has infringed and continues to infringe claim 25 of the ’602 patent. Claim 25 claims as follows:

A method for encoding a block of data in a manner designed to facilitate fault-tolerant authentication comprising:

¹ All other patents asserted in the original complaint, but not this amended complaint, were voluntarily withdrawn by Intertrust for the purpose of narrowing the case.

generating a progression of check values, each check value in the progression being derived from a portion of the block of data and from at least one other check value in the progression;

generating an encoded block of data, comprising:

inserting error-check values into the block of data, each error-check value being inserted in proximity to a portion of the block of data to which it corresponds, and each error-check value being operable to facilitate authentication of a portion of the block of data and of a check value in the progression of check values;

transmitting the encoded block of data and the check values to a user's system, whereby the user's system is able to receive and authenticate portions of the encoded block of data before the entire encoded block of data is received,

wherein each error-check value comprises a hash of the portion of the block of data to which it corresponds.

34. Cinemark has infringed and continues to infringe at least claim 25 of the '602 patent through its use of a DCI-compliant equipment suite to log and distribute log records of showings of movies and other DCI-compliant content in its movie theaters, insofar as all limitations of this claim correspond to elements in the logging and distribution of logs of showings of movies in a movie theater using a DCI-compliant equipment suite. The logs are generated for the use of participants in the digital content distribution vertical channel. Each log record includes a check value, namely the hash of the header of the prior log record. In generating a series of log records, the DCI-compliant equipment suite generates a series of said check values. The record header comprises a hash of the record body and a hash of the previous record header. Each log record also includes a hash of the log record body, an error-check value. The hash of the record body is derived from a portion of the block of data, here the entire block

of data, and also from the hash of the prior record header, the prior record header being one other check value in the progression.

35. Cinemark has had actual knowledge of both Intertrust's rights in the '602 patent and details of Cinemark's infringement of the '602 patent because Intertrust brought the '602 patent to Cinemark's attention before the filing date of this Complaint, at least by on or about April, 2018.

36. Cinemark is not and has never been licensed or otherwise authorized by Intertrust to practice, the claims of the '602 patent.

37. By reason of Cinemark's infringing activities, Intertrust has suffered, and will continue to suffer, substantial damages in an amount to be proven at trial. But for Cinemark's infringement of the '602 patent, Intertrust would have provided Cinemark with the patented Intertrust technology that Cinemark needed to implement the Infringing Products and Services and/or licensed the '602 patent to Cinemark so that Cinemark could implement these products and services. As a result of Cinemark's infringement, Intertrust has been damaged in an amount equal to the loss of profits that would otherwise have accrued to Intertrust from providing its patented technology to Cinemark, but in no event less than a reasonable royalty.

38. Cinemark's continuing acts of infringement are a basis of consumer demand for the Infringing Products and Services. Cinemark's continuing acts of infringement are therefore irreparably harming and causing damage to Intertrust, for which Intertrust has no adequate remedy at law, and will continue to suffer such irreparable injury unless Cinemark's continuing acts of infringement are enjoined by the Court. The hardships that an injunction would impose are less than those faced by Intertrust should an injunction not issue. The public interest would be served by issuance of an injunction.

39. Cinemark's infringement of the '602 patent has been and continues to be willful and deliberate, justifying a trebling of damages under 35 U.S.C. § 284.

SECOND CAUSE OF ACTION
Infringement of Patent No. 7,406,603

40. Plaintiff re-alleges and incorporates by reference each of the allegations in the foregoing paragraphs as though fully set forth herein.

41. Intertrust is the current exclusive owner and assignee of all right, title, and interest in and to U.S. Patent No. 7,406,603 (“the ’603 patent”), titled “Data protection systems and methods,” duly and legally issued by the United States Patent and Trademark Office on July 29, 2008, including the right to bring this suit for injunctive relief and damages. A true and correct copy of the ’603 patent is attached to Intertrust’s original complaint as Exhibit E.

42. The ’603 patent is valid and enforceable.

43. Cinemark has directly infringed and is currently directly infringing the ’603 patent by making, using, selling, offering for sale, and/or importing into the United States, without authority, products, methods performed by and/or attributable to equipment, and or services that practice one or more claims of the ’603 patent, including but not limited to DCI-compliant equipment suites, and components thereof, and providing services such as showing movies using DCI-compliant equipment suites (herein the “Infringing Products and Services”).

44. As a non-limiting example, Cinemark has infringed and continues to infringe claim 1 of the ’603 patent. Claim 1 claims as follows:

A method for protecting electronic media content from unauthorized use by a user of a computer system, the method including:

receiving a request from a user of the computer system to use a piece of electronic media content;

identifying one or more software modules responsible for processing the piece of electronic media content and enabling use of the piece of electronic media content by the user;

processing at least a portion of said piece of electronic media content using at least one of the one or more software modules;

evaluating whether the at least one of the one or more software modules process the portion of the electronic media content in an authorized manner, the evaluating including at least one action selected from the group consisting of:

evaluating whether the at least one of the one or more software modules make calls to certain system interfaces;

evaluating whether the at least one of the one or more software modules direct data to certain channels;

analyzing dynamic timing characteristics of the at least one of the one or more software modules for anomalous timing characteristics indicative of invalid or malicious activity;

denying the request to use the piece of electronic media content if the evaluation indicates that the at least one of the one or more software modules fail to satisfy a set of predefined criteria.

45. Cinemark has infringed and continues to infringe at least claim 1 of the '603 patent through its use of a DCI-compliant equipment suite to show movies and other DCI-compliant content in its movie theaters, insofar as all limitations of this claim correspond to elements in the showing of movies in a movie theater using a DCI-compliant equipment suite. The IMB Security Manager identifies all of the secure processing blocks within the DCI-compliant equipment suite and verifies that there is a corresponding digital certificate attesting to their validity and function. The IMB Security Manager will evaluate whether the processing of the digital content is directed to one of those certain channels permitted by the Trusted Device List and device restrictions enforced by the KDM.

46. Cinemark has had actual knowledge of both Intertrust's rights in the '603 patent and details of Cinemark's infringement of the '603 patent because Intertrust brought the '603 patent to Cinemark's attention before the filing date of this Complaint, at least by on or about April, 2018.

47. Cinemark is not and has never been licensed or otherwise authorized by Intertrust to practice, the claims of the '603 patent.

48. By reason of Cinemark's infringing activities, Intertrust has suffered, and will continue to suffer, substantial damages in an amount to be proven at trial. But for Cinemark's infringement of the '603 patent, Intertrust would have provided Cinemark with the patented Intertrust technology that Cinemark needed to implement the Infringing Products and Services and/or licensed the '603 patent to Cinemark so that Cinemark could implement these products and services. As a result of Cinemark's infringement, Intertrust has been damaged in an amount equal to the loss of profits that would otherwise have accrued to Intertrust from providing its patented technology to Cinemark, but in no event less than a reasonable royalty.

49. Cinemark's continuing acts of infringement are a basis of consumer demand for the Infringing Products and Services. Cinemark's continuing acts of infringement are therefore irreparably harming and causing damage to Intertrust, for which Intertrust has no adequate remedy at law, and will continue to suffer such irreparable injury unless Cinemark's continuing acts of infringement are enjoined by the Court. The hardships that an injunction would impose are less than those faced by Intertrust should an injunction not issue. The public interest would be served by issuance of an injunction.

50. Cinemark's infringement of the '603 patent has been and continues to be willful and deliberate, justifying a trebling of damages under 35 U.S.C. § 284.

THIRD CAUSE OF ACTION
Infringement of Patent No. 8,931,106

51. Plaintiff re-alleges and incorporates by reference each of the allegations in the foregoing paragraphs as though fully set forth herein.

52. Intertrust is the current exclusive owner and assignee of all right, title, and interest in and to U.S. Patent No. 8,931,106 ("the '106 patent"), titled "Systems and methods for managing and protecting electronic content and applications," duly and legally issued by the United States Patent and Trademark Office on January 6, 2015, including the right to bring this

suit for injunctive relief and damages. A true and correct copy of the '106 patent is attached to Intertrust's original complaint as Exhibit J.

53. The '106 patent is valid and enforceable.

54. Cinemark has directly infringed and is currently directly infringing the '106 patent by making, using, selling, offering for sale, and/or importing into the United States, without authority, products, methods performed by and/or attributable to equipment, and or services that practice one or more claims of the '106 patent, including but not limited to DCI-compliant equipment suites, and components thereof, and providing services such as showing movies using DCI-compliant equipment suites (herein the "Infringing Products and Services").

55. As a non-limiting example, Cinemark has infringed and continues to infringe claim 17 of the '106 patent. Claim 17 claims as follows:

A method for managing the use of electronic content at a computing device, the method including:

receiving a piece of electronic content;

receiving, separately from the piece of electronic content, data specifying one or more conditions associated with rendering the piece of electronic content, the one or more conditions including a condition that the piece of electronic content be rendered by a rendering application associated with a first digital certificate;

executing a rendering application on the computing device, the rendering application being associated with at least the first digital certificate, the first digital certificate having been generated by a first entity based at least in part on a determination that the rendering application will handle electronic content with at least a predefined level of security;

requesting, through a rights management engine executing on the computing device, permission for the rendering application to render the piece of electronic content;

determining, using the rights management engine, whether the one or more conditions specified by the data have been satisfied;
decrypting the piece of electronic content; and
rendering the decrypted piece of electronic content using the rendering application.

56. Cinemark has infringed and continues to infringe at least claim 17 of the '106 patent through its use of a DCI-compliant equipment suite to show movies and other DCI-compliant content in its movie theaters, insofar as all limitations of this claim correspond to elements in the showing of movies in a movie theater using a DCI-compliant equipment suite. The KDM and the digital content are separately received. The KDM includes a condition that the DCI-compliant equipment suite is associated with a digital certificate generated by or on behalf of DCI attesting to the compliance of the DCI-compliant equipment suite with DCI specifications, which represents a determination that the DCI-compliant equipment suite will handle digital movie content with at least a predefined level of security.

57. Cinemark has had actual knowledge of both Intertrust's rights in the '106 patent and details of Cinemark's infringement of the '106 patent because Intertrust brought the '106 patent to Cinemark's attention before the filing date of this Complaint, at least by on or about April, 2018.

58. Cinemark is not and has never been licensed or otherwise authorized by Intertrust to practice, the claims of the '106 patent.

59. By reason of Cinemark's infringing activities, Intertrust has suffered, and will continue to suffer, substantial damages in an amount to be proven at trial. But for Cinemark's infringement of the '106 patent, Intertrust would have provided Cinemark with the patented Intertrust technology that Cinemark needed to implement the Infringing Products and Services and/or licensed the '106 patent to Cinemark so that Cinemark could implement these products and services. As a result of Cinemark's infringement, Intertrust has been damaged in an amount

equal to the loss of profits that would otherwise have accrued to Intertrust from providing its patented technology to Cinemark, but in no event less than a reasonable royalty.

60. Cinemark's continuing acts of infringement are a basis of consumer demand for the Infringing Products and Services. Cinemark's continuing acts of infringement are therefore irreparably harming and causing damage to Intertrust, for which Intertrust has no adequate remedy at law, and will continue to suffer such irreparable injury unless Cinemark's continuing acts of infringement are enjoined by the Court. The hardships that an injunction would impose are less than those faced by Intertrust should an injunction not issue. The public interest would be served by issuance of an injunction.

61. Cinemark's infringement of the '106 patent has been and continues to be willful and deliberate, justifying a trebling of damages under 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Intertrust respectfully requests the following relief:

A. A judgment that Cinemark has infringed (and, for the patents that have not expired, is infringing) each and every one of the Asserted Patents;

B. A preliminary and permanent injunction against Cinemark, its respective officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from infringement, inducement of infringement, and contributory infringement of each and every one of the Asserted Patents, including but not limited to an injunction against making, using, selling, and/or offering for sale within the United States, and/or importing into the United States, any products and/or services that infringe the Asserted Patents;

C. Lost profit damages resulting from Cinemark's infringement of the Asserted Patents;

D. A reasonable royalty for Cinemark's use of Intertrust's patented technology, as alleged herein;

E. Prejudgment interest;

F. Post-judgment interest;

G. A judgment holding Cinemark's infringement of the Asserted Patents to be willful, and a trebling of damages pursuant to 35 U.S.C. § 284;

H. A declaration that this Action is exceptional pursuant to 35 U.S.C. § 285, and an award to Intertrust of its attorneys' fees, costs and expenses incurred in connection with this Action; and

I. Such other relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

DATED: December 16, 2021

By: /s/ Tigran Guledjian by permission Andrea Fair

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***COUNSEL FOR INTERTRUST
TECHNOLOGIES CORPORATION***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 16, 2021, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system. Any other counsel of record will be served in accordance with the Federal Rules of Civil Procedure.

/s/ Andrea Fair