

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

INTERACTIVE MEDIA NETWORKS LLC,

Plaintiff,

v.

FRONTIER COMMUNICATIONS
CORPORATION,

Defendant.

Case No. _____

DEMAND FOR JURY TRIAL

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

1. Interactive Media Networks LLC (“IMN” or “Plaintiff”), by and through its counsel, hereby brings this action for patent infringement against Defendant Frontier Communications Corporation (“Frontier” or “Defendant”), alleging infringement of the following validly issued patent (the “Patent-in-Suit”): U.S. Patent No. 8,966,526 titled “Internet-based submission of cable network content,” attached hereto as Exhibit A.

NATURE OF THE ACTION

2. This is an action for patent infringement arising under the United States Patent Act 35 U.S.C. §§ 1 et seq., including 35 U.S.C. § 271.

3. Interactive Media Networks LLC is a Delaware company with a registered office at 251 Little Falls Drive, Wilmington, DE, 19808 and that may be served via its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

4. On information and belief, Defendant Verizon is a Delaware corporation with principal place of business at 401 Merritt 7, Norwalk, CT 06851. Verizon may be served through its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

JURISDICTION AND VENUE

5. This lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 et seq. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 1367.

6. The Court has personal jurisdiction over Defendant for the following reasons: (1) Defendant is present within or has minimum contacts within the State of Texas and the Eastern District of Texas; (2) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this district; (3) Defendant has sought protection and benefit from the laws of the State of Texas; (4) Defendant regularly conducts business within the State of Texas and within this district, and Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this district; and (5) Defendant has purposely availed itself of the privileges and benefits of the laws of the State of Texas.

7. Defendant, directly and/or through intermediaries, ships, distributes, uses, offers for sale, sells, and/or advertises products and services in the United States, the State of Texas, and the Eastern District of Texas including but not limited to the products which contain the infringing elements as detailed below. Upon information and belief, Defendant has committed patent infringement in the State of Texas and in this district; Defendant solicits and has solicited customers in the State of Texas and in this district; and Defendant has paying customers who are residents of the State of Texas and this district and who each use and have used the Defendant's products and services in the State of Texas and in this district.

8. Venue is proper in the Eastern District of Texas over Defendant pursuant to 28 U.S.C. §§ 1400(b). Defendant maintains a regular and established place of business in this district, has transacted business in this district, and has directly and/or indirectly committed acts of

patent infringement in this district. For instance, upon information and belief, Defendant maintains a regular and established place of business at 2918 Coit Rd, Plano, TX 75075.

PATENT-IN-SUIT

9. Plaintiff incorporates the above paragraphs herein by reference.

10. On February 24, 2015, United States Patent No. 8,966,526 titled “Internet-based submission of cable network content” was duly and legally issued by the United States Patent and Trademark Office. The ’526 Patent is presumed valid and enforceable.

11. Plaintiff is the assignee of all right, title and interest in the Patent-in-Suit including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit.

12. The Patent-in-Suit relates to the selection and delivery of advertising information through cable networks. *See* Ex. A at 1:13-15.

13. The inventions disclosed in the Patent-in-Suit were not well-understood, routine, or conventional. At the time the Patent-in-Suit was filed, submission of television advertisements to cable TV companies was a cumbersome process. *See* Ex. A at 1:27-30. First, time was needed to process advertising submissions, thus causing delays. *See* Ex. A at 1:30-32. Furthermore, once a submission was approved, the advertisement was run for an agreed-upon period of time. *See* Ex. A at 1:32-34. The result was a lack of flexibility for the advertiser, as the advertiser was “stuck” with that particular listing for a fixed period of time, even if the needs of the advertiser changed (such as having new contact information). *See* Ex. A at 1:38-41. Moreover, the television viewer had no means of viewing listings for advertising interactively. *See* Ex. A at 1:39-40. Although systems did exist which allowed users to surf the Internet via a cable television connection and thus access product listings and advertiser listings, those systems did not allow advertisers to

submit advertising content over the Internet and thereby focus advertising content delivery. *See* Ex. A at 1:48-57.

14. The Patent-in-Suit addressed these technical challenges by, for example, teaching a cable network content delivery system configured to provide advertising information via a cable network. *See* Ex. A at 2:4-6. The system includes a data gateway configured to store the advertising information, the advertising information itself (adapted by the cable content generator using advertisements submitted over the Internet), a provider of the advertising information, and a retriever which allows users to retrieve the advertising information. *See* Ex. A at 2:6-17.

15. The claims of the Patent-in-Suit do not merely recite the performance of a familiar business practice with a requirement to perform it on the Internet. Instead, the claims recite one or more inventive concepts that are rooted in improving the efficiency and interactivity of television advertisements.

16. Moreover, the inventions taught in the Patent-in-Suit, which are rooted in improving the efficiency and interactivity of television advertisements, cannot be performed with pen and paper or in the human mind. Additionally, because the Patent-in-Suit teaches a mechanism to improve efficiency and interactivity of television advertisements, the solutions it teaches are not merely drawn to longstanding human activities.

ACCUSED PRODUCTS

17. Defendant makes, uses, offers for sale, sells in the U.S., and/or imports into the U.S. products, systems, and/or services that infringe the Patent-in-Suit, including, but not limited to, Frontier FiOS TV and Frontier Fiber TV (the "Accused Products" or "Accused Instrumentality"). Frontier FiOS TV (integrated with Beachfront Media services) and Frontier Fiber TV are set-top boxes that receive content information from advertisers through an advertising interface and

distribute those advertisements to users.

COUNT I
(Infringement of U.S. Patent No. 8,966,526)

18. Plaintiff incorporates the above paragraphs herein by reference.

19. The '526 Patent is valid, enforceable, and was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on February 24, 2015. The '526 Patent is presumed valid and enforceable. *See* 35 U.S.C. § 282.

20. Plaintiff is the owner by assignment of the '526 Patent and possesses all rights of recovery under the '526 patent, including the exclusive right enforce the '526 Patent and pursue lawsuits against infringers.

21. Without a license or permission from Plaintiff, Defendant has infringed and continues to directly and indirectly infringe on one or more claims of the '526 Patent by importing, making, using, offering for sale, and/or selling products and devices that embody the patented inventions, including, without limitation, one or more of the patented '526 systems and methods, in violation of 35 U.S.C. § 271.

Direct Infringement – 35 U.S.C. § 271(a)

22. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

23. Without a license or permission from Plaintiff, Defendant has infringed and continues to directly infringe on one or more claims of the '526 Patent by importing, making, using, offering for sale, or selling products and devices that embody the patented inventions, including, without limitation, one or more of the patented '526 systems and methods, in violation of 35 U.S.C. § 271.

24. Defendant has been and now is directly infringing by, among other things,

practicing all of the steps of the '526 Patent by, for example, internal testing, quality assurance, research and development, and troubleshooting. *See, e.g., Waymark Corp. v. Porta Sys. Corp.*, 245 F.3d 1364, 1366 (Fed. Cir. 2001) (noting that “testing is a use of the invention that may infringe under § 271(a)”).

25. By way of example, Defendant has infringed and continues to infringe at least one or more claims of the '526 Patent, including at least Claim 16. Attached hereto as Exhibit B is an exemplary claim chart detailing representative infringement of Claim 16 of the '526 Patent.

Induced Infringement – 35 U.S.C. § 271(b)

26. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

27. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '526 Patent in the State of Texas, in this judicial District, and elsewhere in the United States, by, among other things, making, using, offering for sale, and/or selling, without license or authority, products incorporating the accused technology. End users include, for example, Defendant's customers and other third parties interacting with the accused technology.

28. Defendant had knowledge of the Patent-in-Suit when this suit was filed. *See EON Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient to meet the knowledge requirement for indirect infringement).

29. Defendant knew the actions of making, using, selling, offering for sale, and/or importing the Accused Products infringes the '526 Patent and yet Defendant induced and

continues to induce others-including partners, customers, and third parties-to directly infringe at least one claim of the '526 Patent under 35 U.S.C. § 271(b). Defendant took active steps to induce infringement, such as advertising an infringing use, which supports a finding of an intention. See *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932 (2005) ("[I]t may be presumed from distribution of an article in commerce that the distributor intended the article to be used to infringe another's patent, and so may justly be held liable for that infringement").

30. For example, Defendant induces its users and third parties to use the infringing Frontier FiOS TV, actively prompting infringement by advertising infringing features and providing instructions on how to use them. See, e.g., Ex. C¹ and Ex. D² (advertising the Frontier FiOS TV and Beachfront Media services); Ex. E³ and Ex. F⁴ (advertising the infringing technology of the integrated Beachfront Media services). These resources both advertise the infringing technology and provide detailed directions on how it functions.

31. The allegations herein support a finding that Defendant induced infringement of the '526 Patent. See *Power Integrations v. Fairchild Semiconductor*, 843 F.3d 1315, 1335 (Fed. Cir. 2016) ("[W]e have affirmed induced infringement verdicts based on circumstantial evidence of inducement [e.g., advertisements, user manuals] directed to a class of direct infringers [e.g., customers, end users] without requiring hard proof that any individual third-party direct infringer was actually persuaded to infringe by that material.").

Contributory Infringement – 35 U.S.C. § 271(c)

32. Plaintiff incorporates the above paragraphs herein by reference, the same as if set

¹ Available at <https://web.archive.org/web/20200925130747/https://frontier.com/shop/tv/fios>.

² Available at <https://web.archive.org/web/20201010214529/https://www.beachfront.com/>.

³ Available at <https://web.archive.org/web/20200706134651/https://www.beachfront.com/publishers>.

⁴ Available at <https://web.archive.org/web/20200707060744/https://www.beachfront.com/advertisers>.

forth herein.

33. Defendant had knowledge of the Patent-in-Suit when this suit was filed. *See EON Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient to meet the knowledge requirement for indirect infringement).

34. On information and belief, Defendant contributes to its users' infringement of at least Claim 16 of the '526 Patent by actions of making, using, selling, offering for sale, and/or importing the Accused Products that have no substantial non-infringing uses. *See, e.g., Lucent Techs., Inc. v. Gateway, Inc.*, 580 F.3d 1301, 1321 (Fed. Cir. 2009) (holding that the "substantial non-infringing use" element of a contributory infringement claim applies to an infringing feature or component, and that an "infringing feature" of a product does not escape liability simply because the product as a whole has other non-infringing uses).

Willful Infringement

35. Plaintiff incorporates the above paragraphs herein by reference, the same as if set forth herein.

36. Defendant had knowledge of the Patent-in-Suit when this suit was filed. *See EON Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138, at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit has determined that post-filing knowledge is sufficient to meet the knowledge requirement for indirect infringement).

37. Despite its knowledge of the '526 Patent, Defendant has continued to make, use, sell, offer for sale, and/or import the Accused Product in egregious disregard of Plaintiff's patent

rights. Defendant has acted recklessly and engaged in willful, wanton, and deliberately acts of infringement of the '526 Patent, justifying an award to Plaintiff of increased damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

Plaintiff Suffered Damages

38. Defendant's acts of infringement of the Patents-in-Suit have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 271. The precise amount of damages will be determined through discovery in this litigation and proven at trial.

REQUEST FOR RELIEF

39. Plaintiff incorporates each of the allegations in the paragraphs above and respectfully asks the Court to:

- (a) enter a judgment that Defendant has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of each of the Patent-in-Suit;
- (b) enter a judgment awarding Plaintiff all damages adequate to compensate it for Defendant's infringement of, direct or contributory, or inducement to infringe, the Patent-in-Suit, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;
- (c) enter a judgment awarding treble damages pursuant to 35 U.S.C. § 284 for Defendant's willful infringement of the Patent-in-Suit;
- (d) issue a preliminary injunction and thereafter a permanent injunction enjoining and restraining Defendant, its directors, officers, agents, servants, employees, and those acting in privity or in concert with them, and its subsidiaries, divisions, successors, and assigns,

from further acts of infringement, contributory infringement, or inducement of infringement of the Patent-in-Suit;

(e) enter a judgment requiring Defendant to pay the costs of this action, including all disbursements, and attorneys' fees as provided by 35 U.S.C. § 285, together with prejudgment interest; and

(f) award Plaintiff all other relief that the Court may deem just and proper.

Dated: July 19, 2022

Respectfully submitted,

By: /s/ Kirk J. Anderson

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