

VTran is the assignee of the '320 patent and the '078 patent. VTran seeks injunctive relief and monetary damages.

PARTIES

2. Plaintiff VTran Media Technologies, LLC is a limited liability company organized and existing under the laws of the State of Texas. VTran maintains its principal place of business at 104 E. Houston Street, Suite 140, Marshall, Texas 75670. VTran is the assignee of all rights, title, and interest in and to the '320 patent and the '078 patent, including the right to sue for infringement and recover past damages.

3. Upon information and belief, Defendant Midcontinent Communications is an entity organized and existing under the laws of the State of South Dakota, with its principal place of business located at 3600 Minnesota Drive, Edina, Minnesota, 55435.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, and 284. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over the Defendant because Defendant has minimum contacts within the State of North Dakota and this District in North Dakota; Defendant has purposefully availed itself of the privileges of conducting business in the State of North Dakota and in this District in North Dakota; Defendant has sought protection and benefit from the laws of the State of North Dakota; Defendant regularly conducts business within the State of North Dakota and within this District in North Dakota; and Plaintiff's causes of action arise

directly from Defendant's business contacts and other activities in the State of North Dakota and in this District.

6. More specifically, the Defendant, directly and/or through intermediaries, ships, distributes, offers for sale, sells, and/or advertises its products and services in the United States, the State of North Dakota, and this District in North Dakota. Upon information and belief, the Defendant, through its video-on-demand service, has committed patent infringement in the State of North Dakota and in this District, has contributed to patent infringement in the State of North Dakota and in this District, and/or has induced others to commit patent infringement in the State of North Dakota and in this District in North Dakota. Defendant's video-on-demand service solicits customers in the State of North Dakota and in this District. Defendant has many paying subscribers who are residents of the State of North Dakota and this District in North Dakota and who each use Defendant's video-on-demand service in the State of North Dakota and in this District.

7. Venue is proper in the District of North Dakota pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I – PATENT INFRINGEMENT OF THE '320 PATENT

8. VTran realleges and incorporates by reference each of Paragraphs 1-7 above.

9. United States Patent No. 4,890,320, entitled "Television Broadcast System for Selective Transmission of Viewer-Chosen Programs at Viewer-Requested Times," was duly and legally issued by the United States Patent and Trademark Office on December 26, 1989 after full and fair examination. VTran is the assignee of all rights, title, and interest in and to the '320

patent, and possesses all rights of recovery under the '320 patent, including the right to sue for infringement and recover past damages.

10. Upon information and belief, Midcontinent has infringed and continues to infringe one or more claims of the '320 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, video-on-demand products and/or services.

11. Upon information and belief, Midcontinent has also contributed to the infringement of one or more claims of the '320 patent, and/or actively induced others to infringe one or more claims of the '320 patent, in this district and elsewhere in the United States.

12. Defendant's aforesaid activities have been without authority and/or license from VTran.

13. VTran is entitled to recover from the Defendant the damages sustained by VTran as a result of the Defendant's wrongful acts in an amount subject to proof at trial.

14. Defendant's infringement of VTran's exclusive rights under the '320 patent will continue to damage VTran, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

COUNT II – PATENT INFRINGEMENT OF THE '078 PATENT

15. VTran realleges and incorporates by reference each of Paragraphs 1-14 above.

16. United States Patent No. 4,995,078, entitled "Television Broadcast System for Selective Transmission of Viewer-Chosen Programs at Viewer-Requested Times," was duly and legally issued by the United States Patent and Trademark Office on February 19, 1991 after full and fair examination. VTran is the assignee of all rights, title, and interest in and to the '078

patent, and possesses all rights of recovery under the '078 patent, including the right to sue for infringement and recover past damages.

17. Upon information and belief, Midcontinent has infringed and continues to infringe one or more claims of the '078 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, video-on-demand products and/or services.

18. Upon information and belief, Midcontinent has also contributed to the infringement of one or more claims of the '078 patent, and/or actively induced others to infringe one or more claims of the '078 patent, in this district and elsewhere in the United States.

19. Defendant's aforesaid activities have been without authority and/or license from VTran.

20. VTran is entitled to recover from the Defendant the damages sustained by VTran as a result of the Defendant's wrongful acts in an amount subject to proof at trial.

21. Defendant's infringement of VTran's exclusive rights under the '078 patent will continue to damage VTran, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

Plaintiff VTran Media Technologies, LLC respectfully requests the following relief:

- A. An adjudication that the Defendant has infringed and continue^s to infringe claims of the '320 patent and the '078 patent;
- B. Declare that Defendant Midcontinent induced infringement of the '320 patent and the '078 patent, in violation of 35 U.S.C. § 271(b);

- C. An award to VTran of damages adequate to compensate VTran for the Defendant's acts of infringement together with prejudgment interest;
- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendant from further acts of (1) infringement, (2) contributory infringement, and (3) actively inducing infringement with respect to the claims of the '320 patent and the '078 patent; and
- E. Any further relief that this Court deems just and proper.

TRIAL BY JURY IS HEREBY DEMANDED.

Respectfully submitted,

Dated: February 20, 2008

/s/

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