

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

REMBRANDT TECHNOLOGIES, LP)	
)	
Plaintiff,)	
)	
v.)	
)	
TIME WARNER CABLE INC., TIME)	
WARNER CABLE LLC, TIME)	
WARNER NEW YORK CABLE LLC, TIME)	
WARNER ENTERTAINMENT)	
COMPANY, LP, and TIME WARNER)	
ENTERTAINMENT-ADVANCE/NEWHOUSE)	
PARTNERSHIP,)	
)	
Defendants.)	
)	

Case No. 2:06-CV-369-TJW-CE

JURY TRIAL REQUESTED

FIRST AMENDED COMPLAINT

Plaintiff Rembrandt Technologies, LP (“Rembrandt”) files this complaint for infringement of United States Patent Nos. 5,008,903; 5,710,761; 5,778,234; 6,131,159 and 6,950,444 under 35 U.S.C. § 271, and in support thereof would respectfully show the Court the following:

THE PARTIES

1. Plaintiff Rembrandt is a limited partnership organized under the laws of the state of New Jersey with its principal place of business at 401 City Avenue, Suite 815, Bala Cynwyd, PA 19004 and offices at 214 W. Fanin, Marshall, TX 75670.
2. Defendant Time Warner Cable Inc. (“TWC”) is a corporation organized under the laws of the state of Delaware with its principal place of business at 7910 Crescent Executive Drive, Suite 56, Charlotte, North Carolina 28217. TWC’s registered agent for service of process in Texas is CT Corporation System, 350 North St. Paul Street, Dallas, Texas 75201. TWC is a

national provider of cable television and internet products and services, and regularly conducts and transacts business in Texas and within this judicial district itself (both as Time Warner Cable and/or Road Runner).

3. Defendant Time Warner Cable LLC (“TWCL”), is a corporation organized under the laws of the state of Delaware with its principal place of business at 290 Harbor Drive, Stamford, CT 06902. TWCL’s registered agent for service of process is the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

4. Defendant Time Warner New York Cable LLC (“TWN”) is a corporation organized under the laws of the state of Delaware with its principal place of business at 7910 Crescent Executive Drive, Suite 56, Charlotte, North Carolina 28217-5511. TWN’s registered agent for service of process in Texas is CT Corporation System at 350 North St. Paul Street, Dallas, Texas 75201.

5. Defendant Time Warner Entertainment Company, L.P. (“TWE”) is a limited partnership organized under the laws of the state of Delaware with its principal place of business at 290 Harbor Drive, Stamford, Connecticut 06902 in care of Time Warner Cable. TWE’s registered agent for service of process in Texas is CT Corporation Systems at 1021 Main Street, Suite 1150, Houston, Texas 77002.

6. Defendant Time Warner Entertainment-Advance/Newhouse Partnership (“TWEAN”) is a partnership organized under the laws of the state of New York with its principal place of business at 7910 Crescent Executive Drive, Suite 56, Charlotte, North Carolina 28217 in care of TWEAN Texas Cable Partners General Partner LLC. TWEAN’s registered agent for service of process in Texas is CT Corporation System at 350 North St. Paul Street, Dallas, Texas 75201.

7. TWC is the direct or indirect parent of each of TWCL, TWNY, TWE, and TWEAN. Through one or more of its subsidiaries, affiliates, partners, or other related parties, TWC owns and/or operates cable systems throughout the United States and in the State of Texas (as Time Warner Cable and/or Road Runner). TWCL, TWNY, TWE, and TWEAN, each directly or through one or more subsidiaries, affiliates, partners, or other related parties own and operate cable systems in Texas and elsewhere. TWC, TWCL, TWNY, TWE, and TWEAN (collectively, the “Defendants”), directly or through one or more subsidiaries, affiliates, partners, or other related parties, as set forth herein, have each committed and continue to commit tortious acts of patent infringement within and outside of Texas and within this judicial district.

JURISDICTION AND VENUE

8. This is an action for patent infringement, arising under the patent laws of the United States, 35 U.S.C. § 1, et seq. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C. §§1331 and 1338(a).

9. This Court has personal jurisdiction over Defendants TWC, TWCL, TWNY, TWE, and TWEAN. Defendants have conducted and continue to conduct business in the State of Texas. Defendants directly or through subsidiaries or intermediaries, offer for sale, sell, advertise, and market products and services that infringe the patents-in-suit as described more specifically below. Therefore, because Defendants have committed acts of patent infringement in this district, or are otherwise present or doing business in this district, this Court has personal jurisdiction over Defendants.

10. Venue is proper in this judicial district under 28 U.S.C. §§1391(b), (c), and 1400(b).

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 5,008,903

11. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-10 above.

12. Rembrandt is the owner of all right, title and interest, including the right to sue, enforce and recover damages for all infringements, in U.S. Patent No. 5,008,903, entitled “Adaptive Transmit Pre-Emphasis for Digital Modem Computed from Noise Spectrum” (“the ‘903 patent”). A true copy of the ‘903 patent is attached as Exhibit A.

13. The ‘903 patent was duly and legally issued by the United States Patent and Trademark Office on April 16, 1991, after full and fair examination.

14. Defendants have directly or indirectly infringed, and are continuing to directly or indirectly infringe, the ‘903 patent by practicing or causing others to practice, by inducement and contributorily, the inventions claimed in the ‘903 patent, in this district or otherwise within the United States. For example, Defendants have infringed and continues to infringe the ‘903 patent by providing high-speed cable modem internet products and services to subscribers.

15. Upon information and belief, Defendants will continue to infringe the ‘903 patent unless enjoined by this Court. Upon information and belief, such infringement has been, and will continue to be, willful, making this an exceptional case and entitling Rembrandt to increased damages and reasonable attorneys’ fees pursuant to 35 U.S.C. §§ 284 and 285.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 5,710,761

16. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-10 above.

17. Rembrandt is the owner of all right, title and interest, including the right to sue, enforce and recover damages for all infringements, in U.S. Patent No. 5,710,761, entitled “Error

Control Negotiation Based on Modulation” (“the ‘761 patent”). A true copy of the ‘761 patent is attached as Exhibit B.

18. The ‘761 patent was duly and legally issued by the United States Patent and Trademark Office on January 20, 1998, after full and fair examination.

19. Defendants have directly or indirectly infringed, and are continuing to directly or indirectly infringe, the ‘761 patent by practicing or causing others to practice, by inducement and contributorily, the inventions claimed in the ‘761 patent, in this district or otherwise within the United States. For example, Defendants have infringed and continues to infringe the ‘761 patent by providing high-speed cable modem internet products and services to subscribers.

20. Upon information and belief, Defendants will continue to infringe the ‘761 patent unless enjoined by this Court. Upon information and belief, such infringement has been, and will continue to be, willful, making this an exceptional case and entitling Rembrandt to increased damages and reasonable attorneys’ fees pursuant to 35 U.S.C. §§ 284 and 285.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 5,778,234

21. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-10 above.

22. Rembrandt is the owner of all right, title and interest, including the right to sue, enforce and recover damages for all infringements, in U.S. Patent No. 5,778,234, entitled “Method for Downloading Programs” (“the ‘234 patent.”). A true copy of the ‘234 patent is attached as Exhibit C.

23. The ‘234 patent was duly and legally issued by the United States Patent and Trademark Office on July 7, 1998, after full and fair examination.

24. Defendants have directly or indirectly infringed, and are continuing to directly or indirectly infringe, the '234 patent by practicing or causing others to practice, by inducement and contributorily, the inventions claimed in the '234 patent, in this district or otherwise within the United States. For example, Defendants have infringed and continues to infringe the '234 patent by providing high-speed cable modem internet products and services to subscribers.

25. Upon information and belief, Defendants will continue to infringe the '234 patent unless enjoined by this Court. Upon information and belief, such infringement has been, and will continue to be, willful, making this an exceptional case and entitling Rembrandt to increased damages and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 6,131,159

26. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-10 above.

27. Rembrandt is the owner of all right, title and interest, including the right to sue, enforce and recover damages for all infringements, in U.S. Patent No. 6,131,159, entitled "System for Downloading Programs" ("the '159 patent."). A true copy of the '159 patent is attached as Exhibit D.

28. The '159 patent was duly and legally issued by the United States Patent and Trademark Office on October 10, 2000, after full and fair examination.

29. Defendants have directly or indirectly infringed, and are continuing to directly or indirectly infringe, the '159 patent by practicing or causing others to practice, by inducement and contributorily, the inventions claimed in the '159 patent, in this district or otherwise within the United States. For example, Defendants has infringed and continues to infringe the '159 patent by providing high-speed cable modem internet products and services to subscribers.

30. Upon information and belief, Defendants will continue to infringe the ‘159 patent unless enjoined by this Court. Upon information and belief, such infringement has been, and will continue to be, willful, making this an exceptional case and entitling Rembrandt to increased damages and reasonable attorneys’ fees pursuant to 35 U.S.C. §§ 284 and 285.

COUNT V: INFRINGEMENT OF U.S. PATENT NO. 6,950,444

31. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-10 above.

32. Rembrandt is the owner of all right, title and interest, including the right to sue, enforce and recover damages for all infringements, in U.S. Patent No. 6,950,444, entitled “System and Method for a Robust Preamble and Transmission Delimiting in a Switched-Carrier Transceiver” (“the ‘444 patent”). A true copy of the ‘444 patent is attached as Exhibit E.

33. The ‘444 patent was duly and legally issued by the United States Patent and Trademark Office on September 27, 2005, after full and fair examination.

34. Defendants have directly or indirectly infringed, and are continuing to directly or indirectly infringe, the ‘444 patent by practicing or causing others to practice, by inducement and contributorily, the inventions claimed in the ‘444 patent, in this district or otherwise within the United States. For example, Defendants have infringed and continues to infringe the ‘444 patent by providing high-speed cable modem internet products and services to subscribers.

35. Upon information and belief, Defendants will continue to infringe the ‘444 patent unless enjoined by this Court. Upon information and belief, such infringement has been, and will continue to be, willful, making this an exceptional case and entitling Rembrandt to increased damages and reasonable attorneys’ fees pursuant to 35 U.S.C. §§ 284 and 285.

PRAYER FOR RELIEF

WHEREFORE, Rembrandt prays that it have judgment against Defendants TWC, TWCL, TWNY, TWE and TWEAN for the following:

- (1) An order that TWC, TWCL, TWNY, TWE and TWEAN have infringed the patents-in-suit;
- (2) A permanent injunction enjoining and restraining TWC, TWCL, TWNY, TWE and TWEAN and their agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association therewith, from making, using, offering to sell, selling, and importing into the United States any product, or using, offering to sell, or selling any service, which falls within the scope of any claim of the patents-in-suit;
- (3) An award of damages;
- (4) An award of increased damages pursuant to 35 U.S.C. § 284;
- (5) An award of all costs of this action, including attorneys' fees and interest; and
- (6) Such other and further relief, at law or in equity, to which Rembrandt is justly entitled.

JURY DEMAND

Rembrandt hereby demands a jury trial on all issues appropriately triable by a jury.

Dated: April 26, 2007

Respectfully submitted,

SUSMAN GODFREY L.L.P.

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CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2007, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, using the electronic filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Brooke A. M. Taylor

Brooke A. M. Taylor