

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

_____		)	
<b>AMERICAN PATENT DEVELOPMENT</b>		)	
<b>CORPORATION, LLC,</b>		)	
		)	
	Plaintiff,	)	
v.		)	C.A. No. 07-605-JJF
		)	
<b>MOVIELINK, LLC</b>		)	
		)	
and		)	<b>JURY TRIAL DEMANDED</b>
		)	
<b>BLOCKBUSTER INC.,</b>		)	
		)	
	Defendants.	)	
_____		)	

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff American Patent Development Corporation, LLC, by counsel, brings this action against defendants Movielink, LLC and Blockbuster Inc. (collectively "Defendants"), and alleges as follows:

1. This is an action for patent infringement under 35 U.S.C. § 1 *et seq.*

**PARTIES**

2. Plaintiff American Patent Development Corporation, LLC ("American") is a limited liability company formed and existing under the laws of the State of Delaware with offices located at 133 East 62<sup>nd</sup> Street, New York, New York 10021.

3. Defendant Movielink, LLC ("Movielink") is a limited liability company formed and existing under the laws of the state of Delaware with offices located at 2120 Colorado Avenue, 4<sup>th</sup> Floor, Santa Monica, California 90404.

4. Defendant Blockbuster Inc. ("Blockbuster") is a Delaware corporation with its principal place of business located at 1201 Elm Street, Dallas, Texas 75270.

**JURISDICTION AND VENUE**

5. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.* Subject matter jurisdiction exists pursuant to 28 U.S.C. §§ 1331 and 1338(a).
6. Personal jurisdiction over Defendants is proper in this District.
7. Venue exists in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

**BACKGROUND**

8. American owns all title, right, and interest in and to United States Letters Patent No. 5,400,402 (the "'402 patent") entitled "System for Limiting Use of Down-Loaded Video-on-Demand Data," which was duly and legally issued by the United States Patent and Trademark Office on March 21, 1995. As required by Local Rule 3.2, a copy of the '402 patent is attached as Exhibit A.

9. Movielink has operated a movie download rental service (the "Movielink Service").

10. On or about August 8, 2007, Blockbuster acquired Movielink by purchasing all of Movielink's membership interests.

11. On or about September 21, 2007, Movielink "divided" all of its assets, including the Movielink Service, to Blockbuster.

12. On or about January 6, 2009, Blockbuster, through its counsel of record in this action, agreed to accept liability for any infringement by Movielink of the '402 patent.

**COUNT I**  
**(Patent Infringement -- 35 U.S.C. § 271)**

13. American incorporates by reference paragraph nos. 1 through 12 as if fully set forth herein.

14. Defendants, separately and/or together, have infringed, and may be continuing to infringe, the '402 patent directly, indirectly, contributorily, and/or by inducement, by making, using, offering to sell, selling and/or importing products and/or services in this District and throughout the United States by providing video products and services to customers through the Movielink Service.

15. In addition, Blockbuster has agreed to accept liability for any infringement by Movielink of the '402 patent.

16. Defendants' infringement will continue unless enjoined by this Court.

17. Defendants' infringement has caused and will continue to cause American substantial and irreparable injury for which American is entitled to receive injunctive relief and damages adequate to compensate it for such infringement.

#### **DEMAND FOR RELIEF**

WHEREFORE, American requests this Court to enter judgment in its favor and against Defendants, awarding it the following relief:

A. Permanently enjoining Defendants, their officers, agents, servants, employees, and any others acting in concert with them from infringing the '402 patent;

B. Awarding American damages resulting from Defendants' acts of infringement and ordering Defendants to account for and pay to American damages adequate to compensate American for the infringement of its patent rights;

C. In the event that only Movielink is found liable for infringing the '402 patent, that the Court order that Movielink and Blockbuster be held jointly and severally liable for such infringement based on Blockbuster's agreement to accept liability for Movielink's infringement;

D. Declaring this case exceptional pursuant to 35 U.S.C. § 285 and awarding American interest, costs, expenses and reasonable attorney's fees; and

E. Granting American such other relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

American hereby demands trial by jury as to all issues in this action triable of right by a jury.

Respectfully submitted,

REED SMITH LLP

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