

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

REMBRANDT TECHNOLOGIES, LP )  
)  
Plaintiff, )  
)  
)  
)  
)  
CHARTER COMMUNICATIONS, INC., )  
CHARTER COMMUNICATIONS )  
OPERATING, LLC, and COXCOM, INC. )  
)  
Defendants. )  
\_\_\_\_\_ )

Case No. 2:06CV507 (LED)

**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:

**RELATED CASE**

This case is related to an action filed in the Marshall Division of the Eastern District of Texas and assigned to Judge Ward, captioned *Rembrandt Technologies, LP v. Time Warner Inc.*, No. 2-06CV-369 filed September 13, 2006.

**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 Charter Communications, Inc. is a corporation organized under the laws of the state of Delaware with its principal place of business at 12405 Powerscout Dr., Ste. 100, St. Louis, MO 63131. Charter Communications, Inc. 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.

3. Defendant Charter Communications Operating, LLC is a corporation organized under the laws of the state of Delaware with its principal place of business at 12405 Powerscout Dr., Ste. 100, St. Louis, MO 63131. Charter Communications Operating, LLC is a subsidiary of Defendant Charter Communications, Inc. and 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.

4. Defendant Coxcom, Inc. is a corporation organized under the laws of the state of Delaware with its principal place of business at 1400 Lake Hearn Dr., Atlanta, GA 30319. Coxcom, Inc. 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.

### **JURISDICTION AND VENUE**

5. 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).

6. This Court has personal jurisdiction over all named Defendants. Defendants have conducted and do conduct business within 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.

7. 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**

8. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-7 above.

9. 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.

10. 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.

11. 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.

12. 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**

13. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-7 above.

14. 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.

15. 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.

16. 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 continue to infringe the '761 patent by providing high-speed cable modem internet products and services to subscribers.

17. 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**

18. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-7 above.

19. 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.

20. 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.

21. 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 continue to infringe the ‘234 patent by providing high-speed cable modem internet products and services to subscribers.

22. 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**

23. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-7 above.

24. 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.

25. 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.

26. 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 have infringed and continue to infringe the '159 patent by providing high-speed cable modem internet products and services to subscribers.

27. 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**

28. Rembrandt refers to and incorporates herein the allegations of Paragraphs 1-7 above.

29. 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.

30. 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.

31. 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 continue to infringe the ‘444 patent by providing high-speed cable modem internet products and services to subscribers.

32. 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 for the following:

- (1) An order that Defendants have infringed the patents-in-suit;
- (2) A permanent injunction enjoining and restraining Defendants and its 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: December 1, 2006

Respectfully submitted,

By: /s/ Max L. Tribble, Jr. by permission E. L. DeRieux

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