

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION**

VTran Media Technologies, LLC,
Plaintiff,

v.

Atlantic Broadband Finance, LLC d/b/a
Atlantic Broadband, Cablevision
Systems Corporation, and MetroCast
Cablevision of New Hampshire, LLC,

Defendants.

Civil Action No. 1:08-cv-00200-WWC

JURY TRIAL DEMANDED

FILED
HARRISBURG, PA

APR 30 2008

CLERK
[Signature]
DEPUTY CLERK

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff VTran Media Technologies, LLC ("Plaintiff" or "VTran"), by and through its undersigned counsel, files this First Amended Complaint against Atlantic Broadband Finance, LLC d/b/a Atlantic Broadband, Cablevision Systems Corporation, Harron Communications, L.P., and Gans Communications, L.P. (collectively "Defendants") as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop each Defendant's infringement of VTran's United States Patent No. 4,890,320 entitled "Television Broadcast System for Selective Transmission of Viewer-Chosen Programs at Viewer-Requested Times" ("the '320 patent"; a copy of which is attached hereto as Exhibit A) and United States Patent No. 4,995,078 entitled "Television Broadcast System for Selective Transmission of Viewer-Chosen Programs at

Viewer-Requested Times" ("the '078 patent"; a copy of which is attached hereto as Exhibit B). 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 Atlantic Broadband Finance, LLC *d/b/a* Atlantic Broadband ("Atlantic") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1 Batterymarch Park, Suite 405, Quincy, Massachusetts 02169.

4. Upon information and belief, Defendant Cablevision Systems Corporation ("Cablevision") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1111 Stewart Avenue, Bethpage, New York 11714.

5. Upon information and belief, Defendant Harron Communications, L.P. ("Harron") is a limited partnership organized and existing under the laws of the State of Delaware, with its principal place of business located at 70 E. Lancaster Avenue, Frazier, Pennsylvania 19355.

6. Upon information and belief, Defendant Gans Communications, L.P. ("Gans") is a limited partnership organized and existing under the laws of the State of Delaware, with its principal place of business located at 1059 E. 10th Street, Hazleton, Pennsylvania 18201.

JURISDICTION AND VENUE

7. 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).

8. The Court has personal jurisdiction over each Defendant because: each Defendant has minimum contacts within the State of Pennsylvania and the Middle District of Pennsylvania; each Defendant has purposefully availed itself of the privileges of conducting business in the State of Pennsylvania and in the Middle District of Pennsylvania; each Defendant has sought protection and benefit from the laws of the State of Pennsylvania; each Defendant regularly conducts business within the State of Pennsylvania and within the Middle District of Pennsylvania; and Plaintiff's causes of action arise directly from Defendants' business contacts and other activities in the State of Pennsylvania and in the Middle District of Pennsylvania.

9. More specifically, each 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 Pennsylvania, and the Middle District of Pennsylvania. Upon information and belief, each Defendant, through their respective video-on-demand service, has committed patent infringement in the State of Pennsylvania and in the Middle District of Pennsylvania, has contributed to patent infringement in the State of Pennsylvania and in the Middle District of Pennsylvania, and/or has induced others to commit patent infringement in the State of Pennsylvania and in the Middle District of Pennsylvania. Each Defendant's video-on-demand service solicits customers in the State of Pennsylvania and in the Middle District of Pennsylvania. Each Defendant has many paying subscribers who are residents of the State of Pennsylvania and the Middle District of Pennsylvania and who each use respective Defendant's

video-on-demand service in the State of Pennsylvania and in the Middle District of Pennsylvania.

10. Venue is proper in the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I – PATENT INFRINGEMENT OF THE '320 PATENT

11. VTran realleges and incorporates by reference each of Paragraphs 1-10 above.

12. 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.

13. Upon information and belief, Atlantic 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.

14. Upon information and belief, Atlantic 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.

15. Upon information and belief, Cablevision 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.

16. Upon information and belief, Cablevision 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.

17. Upon information and belief, Harron 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.

18. Upon information and belief, Harron 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.

19. Upon information and belief, Gans 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.

20. Upon information and belief, Gans 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.

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

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

23. Defendants' 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

24. VTran realleges and incorporates by reference each of Paragraphs 1-23 above.

25. 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.

26. Upon information and belief, Atlantic 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.

27. Upon information and belief, Atlantic 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.

28. Upon information and belief, Cablevision 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.

29. Upon information and belief, Cablevision 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.

30. Upon information and belief, Harron 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.

31. Upon information and belief, Harron 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.

32. Upon information and belief, Gans 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.

33. Upon information and belief, Gans 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.

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

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

36. Defendants' 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.

JURY DEMAND

37. Plaintiff demands a trial by jury on all issues.

PRAYER FOR RELIEF

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

- A. An adjudication that the Defendants have infringed and continue to infringe claims of the '320 patent and the '078 patent;
- B. Declare that Defendants Atlantic, Cablevision, Harron and Gans each 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 Defendants' acts of infringement together with prejudgment interest;
- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendants 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.

Respectfully submitted,

Dated: April __, 2008

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