

WideOpenWest Cleveland, Inc. §
Csc-Lawyers Incorporating Service §
(Corporation Service Company) §
50 W. Broad St., Suite 1800 §
Columbus, OH 43215 §
New Party Defendants. §

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff VTran Media Technologies, LLC (“Plaintiff” or “VTran”), by and through its undersigned counsel, files this Original Complaint against Armstrong Utilities, Inc., Buckeye Cablevision, Inc., Massillon Cable TV, Inc. and WideOpenWest, LLC (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 Armstrong Utilities, Inc. ("Armstrong") is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business located at One Armstrong Place, Butler, PA 16001.

4. Upon information and belief, Defendant Buckeye Cablevision, Inc. ("Buckeye") is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business located at 5566 Southwyck Blvd., Toledo, Ohio 43614.

5. Upon information and belief, Defendant Massillon Cable TV, Inc. ("Massillon") is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business located at 814 Cable Court NW, Massillon, Ohio 44647.

6. Upon information and belief, Defendant WideOpenWest Holdings, LLC ("WOW") is a limited liability company organized and existing under the law of the State of Delaware, with its principal place of business located at 7807 E. Peakview Avenue, Suite 400, Englewood, Colorado 80111. WideOpenWest Holdings, LLC does business in Ohio under the name WideOpenWest, LLC with a business address at 105 Blaze Industrial Parkway, Berea, Ohio 44017.

7. Upon information and belief, New Party Defendant WideOpenWest Finance, LLC ("WOW Finance") is a limited liability company organized and existing under the law of the State of Delaware with a principle place of business located in Englewood, Colorado. WideOpenWest Finance, LLC does transact business in the State of Ohio.

8. Upon information and believe, New Party Defendant WideOpenWest Cleveland, LLC (“WOW Cleveland”) is a limited liability company organized and existing under the law of the State of Delaware with a principle place of business located in Yardley, Pennsylvania. WideOpenWest Cleveland, LLC does transact business in the State of Ohio.

JURISDICTION AND VENUE

9. 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).

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

11. 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 Ohio, and the Northern District of Ohio. Upon information and belief, each Defendant, through their respective video-on-demand service, has committed patent infringement in the State of Ohio and in the Northern District of Ohio, has contributed to patent infringement in the State of Ohio and in the Northern District of Ohio, and/or has induced others

to commit patent infringement in the State of Ohio and in the Northern District of Ohio. Each Defendant's video-on-demand service solicits customers in the State of Ohio and in the Northern District of Ohio. Each Defendant has many paying subscribers who are residents of the State of Ohio and the Northern District of Ohio and who each use respective Defendant's video-on-demand service in the State of Ohio and in the Northern District of Ohio.

12. Venue is proper in the Northern District of Ohio pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I – PATENT INFRINGEMENT OF THE '320 PATENT

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

14. 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.

15. Upon information and belief, Armstrong 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, Armstrong 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, Buckeye 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, Buckeye 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, Massillon 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, Massillon 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. Upon information and belief, WOW, WOW Finance, and WOW Cleveland (hereinafter the "WOW entities") have infringed and continue 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.

22. Upon information and belief, the WOW entities have 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.

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

24. 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.

25. 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

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

27. 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.

28. Upon information and belief, Armstrong 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, Armstrong 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, Buckeye 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, Buckeye 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, Massillon 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, Massillon 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. Upon information and belief, the WOW entities have infringed and continue 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.

35. Upon information and belief, the WOW entities have 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.

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

37. 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.

38. 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

39. 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 Armstrong, Buckeye, Massillon and the WOW entities 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 10, 2008

s/Stuart E. Scott

Stuart E. Scott (0064834)

SPANGENBERG SHIBLEY & LIBER, LLP

2400 National City Center

1900 East Ninth Street

Cleveland, OH 44114

Telephone: (216) 696-3232

Facsimile: (216) 696-3924

E-mail: ses@spanglaw.com

***Counsel for Plaintiff, VTran Media
Technologies, LLC***

and

W. Lewis Garrison, Jr., Esq.

E-mail: wlgarrison@hgdllawfirm.com

Timothy C. Davis, Esq.

E-mail: tim@hgdllawfirm.com

HENINGER GARRISON & DAVIS, LLC

2224 1st Avenue North

Birmingham, Alabama 35203

Telephone: (205) 326-3336

Facsimile: (205) 326-3332

***Counsel for Plaintiff, VTran Media
Technologies, LLC***

OF COUNSEL:

John F. Ward, Esq.

E-mail: wardj@wardolivo.com

John W. Olivo, Jr., Esq.

E-mail: olivoj@wardolivo.com

WARD & OLIVO

380 Madison Avenue

New York, New York 10017

Telephone: (212) 697-6262

Facsimile: (212) 972-586

***Counsel for Plaintiff, VTran Media
Technologies, LLC***

CERTIFICATE OF SERVICE

The foregoing *Plaintiff's First Amended Complaint* was filed electronically with the Court on this 10th day of April, 2008. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. In addition copies have been sent via e-mail/mail to:

Kristen P. Foster, Esq.
David Weaver, Esq.
Vinson & Elkins LLP
The Terrace 7
2801 Via Fortuna, Suite 100
Austin, TX 78746-7568
(512) 542-8496
Fax: (512) 236-3298
kfoster@velaw.com
*Counsel for Defendants, Armstrong Utilities,
Inc., Massillon Cable TV, Inc.,
WideOpenWest Holdings, LLC,
WideOpenWest Finance, LLC, and
WideOpenWest Cleveland, Inc.*

s/Stuart E. Scott 4-10-08

Stuart E. Scott (0064834)
SPANGENBERG SHIBLEY & LIBER, LLP
2400 National City Center
1900 East Ninth Street
Cleveland, OH 44114
Telephone: (216) 696-3232
Facsimile: (216) 696-3924
E-mail: ses@spanglaw.com
*Counsel for Plaintiff, VTran Media
Technologies, LLC*