

THE PARTIES

Plaintiffs

2. Plaintiff Rovi Corporation is incorporated in Delaware and is located at 2830 De La Cruz Blvd., Santa Clara, California 95050.

3. Plaintiff Rovi Guides, Inc. (f/k/a Gemstar-TV Guide International, Inc.) is incorporated in Delaware and is located at 2830 De La Cruz Blvd., Santa Clara, California 95050. Rovi Guides, Inc. is a wholly-owned subsidiary of Rovi Corporation.

4. Gemstar Development Corporation is incorporated in California and is located at 2830 De La Cruz Blvd., Santa Clara, California 95050. Gemstar Development Corporation is the owner of U.S. Patent No. RE41,993. Gemstar Development Corporation is a wholly-owned subsidiary of complainant Rovi Guides, Inc.

5. Plaintiff United Video Properties, Inc. is incorporated in Delaware and is located at 2830 De La Cruz Blvd., Santa Clara, California 95050. United Video Properties, Inc. is the owner of U.S. Patent No. 7,493,643. United Video Properties, Inc. is a wholly-owned subsidiary of complainant Rovi Guides, Inc.

6. Plaintiff Index Systems, Inc. is incorporated in the British Virgin Islands and is located at Craigmuir Chambers, P.O. Box 71, Road Town, Tortola, British Virgin Islands, VG. Index Systems, Inc. is the owner of U.S. Patent No. 6,701,523.

Defendant

7. Upon information and belief, Vizio, Inc. is a corporation organized under the laws of Delaware and has its principal place of business at 39 Tesla, Irvine, California 92618. Vizio has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process.

JURISDICTION AND VENUE

8. This is an action arising under the patent laws of the United States. Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has specific and general jurisdiction over Vizio because it engages in business in the United States and within this district. Vizio has established minimum contacts with the forum. Vizio is incorporated in Delaware and manufactures (directly or indirectly through third party manufacturers) and/or assembles products that are and have been used, offered for sale, sold, and purchased in Delaware. Vizio, directly and/or through its distribution network, places the products within the stream of commerce, which is directed at this district, with the knowledge and/or understanding that such products will be sold in the State of Delaware. Therefore, the exercise of jurisdiction over Vizio would not offend traditional notions of fair play and substantial justice.

10. Vizio is incorporated in and does business in Delaware, including providing products that are used, offered for sale, sold, and have been purchased in this district. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

FACTUAL BACKGROUND

11. Rovi is a global leader in digital entertainment technology solutions. Rovi provides guidance technology, entertainment data, content protection and content networking technology to customers for use in the consumer electronics, cable and satellite, entertainment and online distribution markets to enable them to deliver a unique entertainment experience for television, movies, music and photos.

12. Rovi was created in its current form when Macrovision Corporation acquired Gemstar-TV Guide International, Inc. in May 2008. Gemstar-TV Guide International, Inc. was

the product of a merger between Gemstar International Group, Ltd. and TV Guide, Inc. in 2000. All of these entities are and were innovators in interactive program guides (IPGs) and related technology.

13. Rovi invests significant resources in the development of interactive program guides, parental controls, and related technologies for use in Rovi's products and also for licensing to third parties who develop their own digital entertainment solutions.

14. Rovi's business depends, in significant part, on protecting its innovations through patents. Rovi's long-term financial success depends on its ability to establish, maintain, and protect its proprietary technology through enforcement of its patent rights. Vizio's infringement presents significant and ongoing damages to Rovi's business.

15. Vizio was a licensee to Rovi's patents until the agreement expired earlier this year. Since the expiration, Rovi has unsuccessfully engaged in discussions with Vizio regarding execution of a new license agreement to Rovi's patents.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,493,643

16. Paragraphs 1 through 15 are incorporated by reference as if fully stated herein.

17. United Video Properties, Inc. owns by assignment the entire right, title, and interest in and to the '643 Patent including the right to bring this suit for injunctive relief and damages.

18. The '643 Patent issued on February 17, 2009 and is entitled "Program Guide System with Video-On-Demand Browsing." A true and correct copy of the '643 Patent is attached as Exhibit A and made a part hereof.

19. The '643 Patent is valid and enforceable under United States Patent Laws.

20. Rovi is informed and believes that Vizio has infringed and is infringing the '643 Patent, in violation of 35 U.S.C. § 271 *et seq.*, directly and/or indirectly, by making, using, offering for sale, selling in the United States, and/or importing into the United States without authority, television and digital video player products that infringe one or more claims of the '643 Patent (*e.g.*, model M420SV television, model VF552XVT television, and model VBR133 Blu-Ray DVD Player).

21. Upon information and belief, Vizio sells and offers for sale those products knowing of the '643 Patent, and knowing them to be specially made or adapted for infringing the '643 Patent and not to be a staple article or commodity of commerce suitable for substantial non-infringing use.

22. Upon information and belief, Vizio, knowing of the '643 Patent, actively induces infringement of the '643 Patent by at least encouraging and instructing its customers and end users to sell and/or use its accused television and digital video recorder products in a manner that infringes the '643 Patent, knowing that its actions would induce infringement of the '643 Patent, knowing that infringement of the '643 Patent would take place, intending that infringement take place and in substantial numbers, and resulting in direct infringement of the '643 Patent by its customers and end users of the accused products.

23. Vizio's infringement of the '643 Patent is exceptional and entitles Rovi to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

24. Rovi has been damaged by Vizio's infringement of the '643 Patent and will continue to be damaged unless enjoined by this Court. Rovi does not have an adequate remedy at law.

25. Vizio's infringement of the '643 Patent is willful and deliberate, justifying an increase of damages of up to three times under 35 U.S.C. § 284. Vizio had actual knowledge of its infringement of the '643 Patent no later than November 15, 2011, when Rovi filed the complaint titled *In the Matter of Certain Products Containing Interactive Program Guide and Parental Controls Technology*, Docket No. 337- 2856, in the United States International Trade Commission.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. RE41,993

26. Paragraphs 1 through 15 are incorporated by reference as if fully stated herein.

27. Gemstar Development Corporation owns by assignment the entire right, title, and interest in and to the '993 Patent including the right to bring this suit for injunctive relief and damages.

28. The '993 Patent issued on December 7, 2010 and is entitled "Apparatus and Method for Improved Parental Control of Television Use." A true and correct copy of the '993 Patent is attached as Exhibit B and made a part hereof.

29. The '993 Patent is valid and enforceable under United States Patent Laws. Rovi is informed and believes that Vizio has infringed and is infringing the '993 Patent, in violation of 35 U.S.C. § 271 *et seq.*, directly and/or indirectly, by making, using, offering for sale, selling in the United States, and/or importing into the United States without authority, television products that infringe one or more claims of the '993 Patent (*e.g.*, model E371VL television, model M420SV television, and model VF552XVT television).

30. Upon information and belief, Vizio sells and offers for sale those products knowing of the '993 Patent, and knowing them to be specially made or adapted for infringing the

'993 Patent and not to be a staple article or commodity of commerce suitable for substantial non-infringing use.

31. Upon information and belief, Vizio, knowing of the '993 Patent, actively induces infringement of the '993 Patent by at least encouraging and instructing its customers and end users to sell and/or use its accused television and digital video recorder products in a manner that infringes the '993 Patent, knowing that its actions would induce infringement of the '993 Patent, knowing that infringement of the '993 Patent would take place, intending that infringement take place and in substantial numbers, and resulting in direct infringement of the '993 Patent by its customers and end users of the accused products.

32. Vizio's infringement of the '993 Patent is exceptional and entitles Rovi to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

33. Rovi has been damaged by Vizio's infringement of the '993 Patent and will continue to be damaged unless enjoined by this Court. Rovi does not have an adequate remedy at law.

34. Vizio's infringement of the '993 Patent is willful and deliberate, justifying an increase of damages of up to three times under 35 U.S.C. § 284. Vizio had actual knowledge of its infringement of the '993 Patent no later than November 15, 2011, when Rovi filed the complaint titled *In the Matter of Certain Products Containing Interactive Program Guide and Parental Controls Technology*, Docket No. 337-2856, in the United States International Trade Commission.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 6,701,523

35. Paragraphs 1 through 15 are incorporated by reference as if fully stated herein.

36. Index Systems, Inc. owns by assignment the entire right, title, and interest in and to the '523 Patent including the right to bring this suit for injunctive relief and damages.

37. The '523 Patent issued on December 7, 2010 and is entitled "V-Chip Plus+In-Guide User Interface and Method for Programmable Blocking of Television and Other Viewable Programming, Such as for Parental Control of a Television Receiver." A true and correct copy of the '523 Patent is attached as Exhibit C and made a part hereof.

38. The '523 Patent is valid and enforceable under United States Patent Laws. Rovi is informed and believes that Vizio has infringed and is infringing the '523 Patent, in violation of 35 U.S.C. § 271 *et seq.*, directly and/or indirectly, by making, using, offering for sale, selling in the United States, and/or importing into the United States without authority, television products that infringe one or more claims of the '523 Patent (*e.g.*, model E371VL television, model M420SV television, and model VF552XVT television).

39. Upon information and belief, Vizio sells and offers for sale those products knowing of the '523 Patent, and knowing them to be specially made or adapted for infringing the '523 Patent and not to be a staple article or commodity of commerce suitable for substantial non-infringing use.

40. Upon information and belief, Vizio, knowing of the '523 Patent, actively induces infringement of the '523 Patent by at least encouraging and instructing its customers and end users to sell and/or use its accused television and digital video recorder products in a manner that infringes the '523 Patent, knowing that its actions would induce infringement of the '523 Patent, knowing that infringement of the '523 Patent would take place, intending that infringement take

place and in substantial numbers, and resulting in direct infringement of the '523 Patent by its customers and end users of the accused products.

41. Vizio's infringement of the '523 Patent is exceptional and entitles Rovi to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

42. Rovi has been damaged by Vizio's infringement of the '523 Patent and will continue to be damaged unless enjoined by this Court. Rovi does not have an adequate remedy at law.

43. Vizio's infringement of the '523 Patent is willful and deliberate, justifying an increase of damages of up to three times under 35 U.S.C. § 284. Vizio had actual knowledge of its infringement of the '993 Patent no later than April 24, 2011, when Rovi contacted Vizio regarding a possible renewal of the parties' existing licensing agreement. Additionally, Vizio had actual knowledge of its infringement of the '523 Patent no later than November 15, 2011, when Rovi filed the complaint titled *In the Matter of Certain Products Containing Interactive Program Guide and Parental Controls Technology*, Docket No. 337-2856, in the United States International Trade Commission.

DEMAND FOR JURY TRIAL

44. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Rovi demands a trial by jury of this action.

PRAYER FOR RELIEF

WHEREFORE, Rovi prays for the following judgment and relief against Vizio:

- (A) That Vizio has infringed each and every one of the Asserted Patents;
- (B) That the Asserted Patents are not invalid and are enforceable;
- (C) That Vizio, its officers, agents, employees, and those persons in active concert or

participation with any of them, and its successors and assigns, be permanently enjoined from infringement, inducement of infringement, and contributory infringement of each and every one of the Asserted Patents, including but not limited to an injunction against making, using, selling, and/or offering for sale within the United States, and/or importing into the United States, any products and/or services that infringe the Asserted Patents;

(D) That Rovi be awarded all damages adequate to compensate it for Vizio's infringement of the Asserted Patents, such damages to be determined by a jury, and, if necessary to adequately compensate Rovi for the infringement, an accounting;

(E) That Rovi be awarded treble damages and pre-judgment and post-judgment interest at the maximum rate allowed by law;

(F) That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that Rovi be awarded attorneys' fees, costs, and expenses incurred in connection with this action;

(G) That Rovi be awarded such other and further relief as this Court deems just and proper.

Dated: November 16, 2011

Respectfully submitted,

/s/ David L. Larson

Yar R. Chaikovsky
David L. Larson
Hong S. Lin
Jeremiah A. Armstrong
Cary Chien
McDermott Will & Emery LLP
275 Middlefield Road, Suite 100
Menlo Park, CA 94025
650.815.7400
650.815.7401 (facsimile)

Joel M. Freed
Christopher G. Paulraj
Alexander P. Ott
McDermott Will & Emery LLP
600 Thirteenth Street, NW
Washington, DC 20005
202.756.8000
202.756.8087 (facsimile)

ATTORNEYS FOR PLAINTIFFS
Rovi Corporation, Rovi Guides, Inc.,
Gemstar Development Corporation,
United Video Properties, Inc.
and Index Systems, Inc.

4549015