

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

VIDEO STREAMING SOLUTIONS, LLC,

Plaintiff,

v.

CISCO SYSTEMS, INC.,

Defendant.

Case No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Video Streaming Solutions, LLC (“VSS”) filed this complaint for patent infringement against Defendant Cisco Systems, Inc. (“Cisco” or “Defendant”) for infringement of U.S. Patent No. 5,566,208 (“the ‘208 patent”), U.S. Patent No. 6,157,673 (“the ‘673 patent”), U.S. Patent No. 6,175,595 (“the ‘595 patent”), U.S. Patent No. 6,629,318 (“the ‘318 patent”), U.S. Patent No. 6,806,909 (“the ‘909 patent”), U.S. Patent No. 6,870,886 (“the ‘886 patent”), U.S. Patent No. 6,906,617 (“the ‘617 patent”) and U.S. Patent No. 6,922,805 (“the ‘805 patent”) (collectively the “Asserted Patents”).

THE PARTIES

1. VSS is a Texas limited liability company with its principal place of business at 6136 Frisco Square Blvd., Suite 385, Frisco, Texas 75034.

2. Cisco is a Delaware corporation with its principal place of business at 170 West Tasman Drive, San Jose, California 95134-1706.

JURISDICTION AND VENUE

3. This is an action for patent infringement under Title 35 of the United States Code. VSS is seeking injunctive relief as well as damages.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this is a civil action for patent infringement arising under the United States' patent statutes, 35 U.S.C. § 101 *et seq.*

5. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b) because Defendants have committed acts of infringement in this district and/or are deemed to reside in this district.

6. This Court has personal jurisdiction over Defendant and venue is proper in this district because Defendant has committed, and continues to commit, acts of infringement in the State of Delaware, including in this district and/or has engaged in continuous and systematic activities in the State of Delaware, including in this judicial district.

**COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 5,566,208)**

7. VSS incorporates paragraphs 1 through 6 herein by reference.

8. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

9. VSS is the owner of the '208 patent titled "Encoder Buffer Having An Effective Size Which Varies Automatically With The Channel Bit-Rate." A true and correct copy of the '208 patent is attached as Exhibit 1.

10. The '208 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

DIRECT INFRINGEMENT

11. On information and belief, Cisco has and continues to directly infringe one or more claims of the '208 patent, including at least claim 1, by, among other things, making, using, offering for sale, selling and/or importing apparatuses that infringe the '208 patent including, but

not limited to, Cisco's testing of its D9034, D9036, D9054, D9093 and D9094 products. Cisco is therefore liable for infringement pursuant to 35 U.S.C. § 271.

INDIRECT INFRINGEMENT – (INDUCEMENT)

12. Based on the information presently available to VSS, absent discovery, and in the alternative to direct infringement, VSS contends that Cisco has and continues to indirectly infringe one or more claims of the '208 patent, including at least claim 1, by inducing others, including entities such as end user of Cisco's D9034, D9036, D9054, D9093 and D9094 products, to make, use, offer for sale, sell and/or import devices that infringe one or more claims of the '208 patent, including at least claim 1.

13. On information and belief, Cisco has been on notice of the '208 patent since at least February 25, 2006, when it finalized its acquisition of Scientific Atlanta. At least three Scientific Atlanta U.S. Patents, U.S. Patent Nos. 6,052,384, 6,570,888 and 6,594,316 reference the '208 patent. In the alternative, Cisco has been on notice of the '208 patent since at least service of this action.

14. On information and belief, since Cisco has been on notice of the '208 patent, Cisco has knowingly induced infringement of the '208 patent, including at least claim 1 of the '208 patent, and possessed specific intent to encourage others' infringement.

15. On information and belief, since Cisco has been on notice of the '208 patent, Cisco knew or should have known that its action would induce actual infringement of the '208 patent, including at least claim 1 of the '208 patent.

16. Cisco has not produced or relied upon an opinion of counsel related to the '208 patent. In accordance with Fed .R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

17. Cisco provides support to purchasers of its encoder products, such as its D9034, D9036, D9054, D9093 and D9094 products.

18. Cisco has not produced any evidence as to any investigation, design around or that any remedial action was taken with respect to the '208 patent. In accordance with Fed .R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

19. Cisco instructs purchasers of its battery encoder products, such as its D9034, D9036, D9054, D9093 and D9094 products, to use these products in a manner that infringes one or more claims of the '208 patent, including at least claim 1.

INDIRECT INFRINGEMENT – (CONTRIBUTORY)

20. Based on information presently available to VSS, absent discovery, and in the alternative to direct infringement, VSS contends that Cisco has and continues to indirectly infringe one or more claims of the '208 patent, including at least claim 1, by contributing to the direct infringement of others, including entities such as end user of Cisco's D9034, D9036, D9054, D9093 and D9094 products, to make, use, offer for sale, sell and/or import devices that infringe one or more claims of the '208 patent, including at least claim 1.

21. Cisco has and continues to contribute to the direct infringement of others, such as end user of Cisco's D9034, D9036, D9054, D9093 and D9094 products, by offering to sell, selling and/or importing into the United States a component of a patented apparatus that constitutes a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '208 patent and not a staple article or commodity of commerce suitable for substantial noninfringing use. An example of such a material component

offered for sale, sold and/or imported by Cisco is Cisco's D9034, D9036, D9054, D9093 and D9094 products.

22. On information and belief, Cisco has been on notice of the '208 patent since at least February 25, 2006, or before, when it finalized its acquisition of Scientific Atlanta, but has continued since that time to cause others to directly infringe the '208 patent as alleged herein. At least three Scientific Atlanta U.S. Patents, U.S. Patent Nos. 6,052,384, 6,570,888 and 6,594,316 reference the '208 patent. In the alternative, Cisco has been on notice of the '208 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '208 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

23. Since Cisco has been on notice of the '208 patent, Cisco knew or should have known that its D9034, D9036, D9054, D9093 and D9094 products constitute material components of the inventions claimed in the '208 patent, are especially made or especially adapted for use in infringement of the '208 patent, and are not staple articles or commodities of commerce suitable for substantial noninfringing use.

24. By virtue of at least this complaint, Cisco has been provided with written notice of VSS's allegation that Cisco has and continues to contributorily infringe the '208 patent and written identification of exemplar products that infringe one or more claims of the '208 patent (e.g., systems used by end users of D9034, D9036, D9054, D9093 and D9094 products in conjunction with these products) and written notice of an exemplar material part of these devices (e.g., Cisco's D9034, D9036, D9054, D9093 and D9094 products) that are especially made or

especially adapted for use in infringing the '208 patent and are not staple articles or commodities of commerce suitable for substantial noninfringing use.

ADDITIONAL ALLEGATIONS PERTAINING TO COUNT I

25. On information and belief, Cisco's infringement of the '208 patent has been willful because Cisco, with knowledge of the '208 patent, has and continues to act despite an objectively high likelihood that its actions constitute infringement of the '208 patent and a subject knowledge or obviousness of such risk.

**COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 6,157,673)**

26. VSS incorporates paragraphs 1 through 25 herein by reference.

27. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

28. VSS is the owner of the '673 patent titled "Fast Extraction of Program Specific Information from Multiple Transport Streams." A true and correct copy of the '673 patent is attached as Exhibit 2.

29. The '673 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

30. On information and belief, Cisco has and continues to directly infringe one or more claims of the '673 patent, including at least claim 17, by, among other things, practicing the method of claim 17 by virtue of Cisco's Visual Quality Experience (VQE) including its devices with Cisco VQE. Cisco is therefore liable for infringement pursuant to 35 U.S.C. § 271.

31. On information and belief, Cisco has been on notice of the '673 patent since at least, or before, the prosecution of the U.S. Patent No. 6,483,543 when it submitted the '673 patent to the United States Patent and Trademark Office during the prosecution of the '543

patent, but has continued since that time to cause others to directly infringe the '673 patent as alleged herein. In the alternative, Cisco has been on notice of the '673 patent since at least, or before, the prosecution of U.S. Patent No. 6,751,259, when it submitted the '673 patent to the United States Patent and Trademark Office during prosecution of the '259 patent, but has continued since that time to cause others to directly infringe the '208 patent as alleged herein. In the alternative, Cisco has been on notice of the '673 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '673 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

32. On information and belief, Cisco's infringement of the '673 patent has been willful because Cisco, with knowledge of the '673 patent, has and continues to act despite an objectively high likelihood that its actions constitute infringement of the '673 patent and a subject knowledge or obviousness of such risk.

COUNT III
(INFRINGEMENT OF U.S. PATENT NO. 6,175,595)

33. VSS incorporates paragraphs 1 through 32 herein by reference.

34. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

35. VSS is the owner of the '595 patent titled "Method and Device for Decoding Digital Video Bitstreams and Reception Equipment Including Such a Device." A true and correct copy of the '595 patent is attached as Exhibit 3.

36. The '595 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

37. On information and belief, Cisco has and continues to directly infringe one or more claims of the '595 patent, including at least claim 1, by, among other things, practicing the method of claim 1 by virtue of Cisco's Visual Quality Experience (VQE) including its devices with Cisco VQE. Cisco is therefore liable for infringement pursuant to 35 U.S.C. § 271.

38. Cisco has been aware (i.e., had notice of) the '595 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '595 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

39. On information and belief, Cisco's infringement of the '595 patent has been willful because Cisco, with knowledge of the '595 patent, has and continues to act despite an objectively high likelihood that its actions constitute infringement of the '595 patent and a subject knowledge or obviousness of such risk.

**COUNT IV
(INFRINGEMENT OF U.S. PATENT NO. 6,629,318)**

40. VSS incorporates paragraphs 1 through 39 herein by reference.

41. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

42. VSS is the owner of the '318 patent titled "Decoder Buffer for Streaming Video Receiver and Method of Operation." A true and correct copy of the '318 patent is attached as Exhibit 4.

43. The '318 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

44. On information and belief, Cisco has and continues to directly infringe one or more claims of the '318 patent, including at least claim 15, by, among other things, practicing the method of claim 15 by virtue of Cisco's Visual Quality Experience (VQE) including its devices with Cisco VQE. Cisco is therefore liable for infringement pursuant to 35 U.S.C. § 271.

45. Cisco has been on notice of the '318 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '318 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

46. On information and belief, Cisco's infringement of the '318 patent has been willful because Cisco, with knowledge of the '318 patent, has and continues to act despite an objectively high likelihood that its actions constitute infringement of the '318 patent and a subject knowledge or obviousness of such risk.

COUNT V
(INFRINGEMENT OF U.S. PATENT NO. 6,806,909)

47. VSS incorporates paragraphs 1 through 46 herein by reference.

48. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

49. VSS is the owner of the '909 patent titled "Seamless Splicing of MPEG-2 Multimedia Data Streams." A true and correct copy of the '909 patent is attached as Exhibit 5.

50. The '909 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

51. On information and belief, Cisco has and continues to directly infringe one or more claims of the '909 patent, including at least claim 11, by, among other things, making,

using, offering for sale, selling and/or importing devices that infringe the '909 patent, including, but not limited to, Cisco's DCM9900. Cisco is therefore liable for infringement pursuant to 35 U.S.C. § 271.

52. Cisco has been on notice of the '909 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '909 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

53. On information and belief, Cisco's infringement of the '909 patent has been willful because Cisco, with knowledge of the '909 patent, has and continues to act despite an objectively high likelihood that its actions constitute infringement of the '909 patent and a subject knowledge or obviousness of such risk.

**COUNT VI
(INFRINGEMENT OF U.S. PATENT NO. 6,906,886)**

54. VSS incorporates paragraphs 1 through 53 herein by reference.

55. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

56. VSS is the owner of the '886 patent titled "Method and Apparatus for Transcoding a Digitally Compressed High Definition Television Bitstream to a Standard Definition Television Bitstream." A true and correct copy of the '886 patent is attached as Exhibit 6.

57. The '886 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

58. On information and belief, Cisco has and continues to directly infringe one or more claims of the '886 patent, including at least claim 9, by, among other things, making, using, offering for sale, selling and/or importing devices that infringe the '886 patent, including, but not limited to, Cisco's DCM9900, D9655 and MXE5600 products. Cisco is therefore liable for infringement pursuant to 35 U.S.C. § 271.

59. Cisco has been on notice of the '886 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '886 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

60. On information and belief, Cisco's infringement of the '886 patent has been willful because Cisco, with knowledge of the '886 patent, has and continues to act despite an objectively high likelihood that its actions constitute infringement of the '886 patent and a subject knowledge or obviousness of such risk.

**COUNT VII
(INFRINGEMENT OF U.S. PATENT NO. 6,906,617)**

61. VSS incorporates paragraphs 1 through 60 herein by reference.

62. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

63. VSS is the owner of the '617 patent titled "Intelligent Appliance Home Network." A true and correct copy of the '617 patent is attached as Exhibit 7.

64. The '617 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

65. On information and belief, Cisco has and continues to directly infringe one or more claims of the '617 patent, including at least claim 1, by, among other things, making, using, offering for sale, selling and/or importing systems that infringe the '617 patent via at least its Cisco's EnergyWise network. Cisco is therefore liable for infringement pursuant to 35 U.S.C. § 271.

66. Cisco has been on notice of the '617 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '617 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

67. On information and belief, Cisco's infringement of the '617 patent has been willful because Cisco, with knowledge of the '617 patent, has and continues to act despite an objectively high likelihood that its actions constitute infringement of the '617 patent and a subject knowledge or obviousness of such risk.

COUNT VIII
(INFRINGEMENT OF U.S. PATENT NO. 6,922,805)

68. VSS incorporates paragraphs 1 through 67 herein by reference.

69. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

70. VSS is the owner of the '805 patent titled "Selective Packet Retransmission with Timing Control at the Transmitter End." A true and correct copy of the '805 patent is attached as Exhibit 8.

71. The '805 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

72. On information and belief, Cisco has and continues to directly infringe one or more claims of the '805 patent, including at least claim 1, by, among other things, practicing the method of claim 1 by virtue its devices with Cisco's Visual Quality Experience (VQE). Cisco is therefore liable for infringement pursuant to 35 U.S.C. § 271.

73. Cisco has been on notice of the '805 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '805 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), VSS will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

74. On information and belief, Cisco's infringement of the '805 patent has been willful because Cisco, with knowledge of the '805 patent, has and continues to act despite an objectively high likelihood that its actions constitute infringement of the '805 patent and a subject knowledge or obviousness of such risk.

ADDITIONAL ALLEGATIONS COMMON TO ALL COUNTS

75. VSS has been damaged as a result of Cisco's infringing conduct described herein. Cisco is, thus, liable to VSS in an amount that adequately compensates VSS for Cisco's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

76. Cisco's actions complained of herein will continue unless Cisco is enjoined by this Court.

77. This case is exceptional pursuant to the provisions of 35 U.S.C. § 285.

78. VSS has complied with 35 U.S.C. § 287.

79. Cisco's actions complained of herein are causing irreparable harm and monetary damage to VSS and will continue to do so unless and until Cisco is enjoined and restrained by this Court.

DEMAND FOR JURY TRIAL

80. VSS demands a trial by jury on all issues properly triable by jury in this action.

PRAYER FOR RELIEF

WHEREFORE, VSS asks the Court to:

- (a) Enter judgment for VSS on this Complaint;
- (b) Enjoin Cisco, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Cisco who receive notice of the order from further infringement of the Asserted Patents;
- (c) Award VSS damages resulting from Cisco's infringement in accordance with 35 U.S.C. § 284;
- (d) Award VSS an ongoing royalty rate for Cisco's post-judgment infringement;
- (e) Find Cisco's infringement to be willful;
- (f) Treble the damages in accordance with the provisions of 35 U.S.C. § 284;
- (g) Find the case to be exceptional under the provisions of 35 U.S.C. § 285;
- (h) Award VSS reasonable attorney fees under 35 U.S.C. § 285;
- (i) Award VSS interest and costs; and
- (j) Award VSS such further relief to which the Court finds VSS entitled under law or equity.

March 30, 2012

BAYARD, P.A.

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