

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

PATENT HARBOR, LLC

Plaintiff,

v.

**DREAMWORKS ANIMATION SKG, INC.,
ET AL.**

Defendants.

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CIVIL ACTION NO. 6:11-cv-229

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

Plaintiff Patent Harbor, LLC (“Patent Harbor”) hereby amends its complaint for patent infringement against the remaining Defendants: Focus Features, LLC, Paramount Pictures Corporation, Paramount Home Entertainment, Inc., Universal Pictures, Universal Studios Home Entertainment, LLC, Private Media Group, Inc., and VCX Ltd., Inc. (collectively the “Defendants” and/or “each Defendant”).

PARTIES

1. Patent Harbor is a corporation organized under the laws of the State of Texas. Patent Harbor maintains its principal place of business at 100 East Ferguson Street, Suite 806, Tyler, Texas 75702.
2. Not used.
3. Not used.
4. Not used.
5. Not used.
6. Not used.

7. Not used.

8. Upon information and belief, Defendant Focus Features, LLC (“Focus Features”) is, and at all relevant times mentioned herein was, a limited liability company organized and existing under the laws of the State of Delaware with a principal place of business at 100 Universal City Plaza, Universal City, CA 91608. Focus Features manufactures for sale and/or sells DVD and Blu-Ray discs to consumers in the United States and, more particularly, in the Eastern District of Texas. Focus Features may be served with process by serving its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

9. Not used.

10. Not used.

11. Not used.

12. Not used.

13. Not used.

14. Not used.

15. Not used.

16. Not used.

17. Upon information and belief, Defendants Paramount Pictures Corporation and Paramount Home Entertainment, Inc. are at all relevant times mentioned herein were, corporations organized and existing under the laws of the State of Delaware, each with a principal place of business at 5555 Melrose Ave., Hollywood, CA 90038 (collectively “Paramount”). Paramount manufactures for sale and/or sells DVD and Blu-Ray discs to consumers in the United States and, more particularly, in the Eastern District of Texas. Each of

Paramount Pictures Corporation and Paramount Home Entertainment, Inc. may be served with process by serving their registered agent, The Prentice-Hall Corporation System, Inc., 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

18. Not used.

19. Not used.

20. Not used.

21. Not used.

22. Not used.

23. Not used.

24. Upon information and belief, Defendant Universal Pictures is a division of NBCUniversal, Inc. which is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of the State of Delaware. Upon information and belief, Defendant Universal Studios Home Entertainment, LLC is, and at all relevant times mentioned herein was, a limited liability company organized and existing under the laws of the State of Delaware. Both Universal Pictures and Universal Studios Home Entertainment, LLC have principal places of business at 30 Rockefeller Plaza, New York, New York 10009 and are hereafter collectively referred to as "Universal". Universal manufactures for sale and/or sells DVD and Blu-Ray discs to consumers in the United States and, more particularly, in the Eastern District of Texas. Universal may be served with process by serving its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

25. Not used.

26. Not used.

27. Not used.

28. Not used.

29. Not used.

30. Not used.

31. Not used.

32. Upon information and belief, Defendant Private Media Group, Inc. (“Private Media”) is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of the State of Nevada with a principal place of business at 537 Stevenson Street, San Francisco, CA 94103. Private Media manufactures for sale and/or sells DVD and Blu-Ray discs to consumers in the United States and, more particularly, in the Eastern District of Texas. Private Media may be served with process by serving its registered agent for service of process, Gateway Enterprises, Inc., 3230 E. Flamingo Road, Suite 156, Las Vegas, NV 89121.

33. Not used.

34. Not used.

35. Upon information and belief, Defendant VCX Ltd., Inc. (“VCX”) is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of the State of Nevada with a principal place of business at 3430 Precision Dr., N. Las Vegas, NV 89032-7979. VCX manufactures for sale and/or sells DVD and Blu-Ray discs to consumers in the United States and, more particularly, in the Eastern District of Texas. VCX may be served with process by serving the company’s president at its principal place of business, Mr. David H. Sutton, 3430 Precision Dr., N. Las Vegas, NV 89032-7979.

JURISDICTION AND VENUE

36. This is an action for violation of the patent laws of the United States, Title 35, United States Code, more particularly, 35 U.S.C. §§ 271 *et seq.*

37. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

38. This Court has personal jurisdiction over each Defendant. Each Defendant has conducted and does conduct business within the State of Texas. Each Defendant, directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises (including the provision of an interactive web page) its products in the United States, the State of Texas, and the Eastern District of Texas. Upon information and belief, each Defendant has purposefully and voluntarily placed one or more of its infringing products, as described below, into the stream of commerce with the expectation that they will be purchased by consumers in the Eastern District of Texas. Upon information and belief, these infringing products have been and continue to be purchased by consumers in the Eastern District of Texas. Each Defendant has committed the tort of patent infringement within the State of Texas and, more particularly, within the Eastern District of Texas.

39. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§ 1391 and 1400(b).

COUNT 1: INFRINGEMENT OF U.S. PATENT NO. 5,684,514

40. Patent Harbor refers to and incorporates all preceding paragraphs as though fully set forth herein.

41. United States Patent No. 5,684,514 (“the ‘514 Patent”), entitled “Apparatus and Method for Assembling Content Addressable Video” was duly and legally issued by the United States Patent and Trademark Office on November 4, 1997, after full and fair examination. Patent

Harbor is the assignee of all rights, title, and interest in and to the '514 Patent and possesses all rights of recovery under the '514 Patent, including the right to recover damages for past infringements. A true and correct copy of the '514 Patent is attached as Exhibit A.

42. Not used.

43. Not used.

44. Not used.

45. Not used.

46. Not used.

47. Not used.

48. Upon information and belief, Focus Features manufactures, uses, sells, offers to sell and/or distributes DVD and Blu-Ray discs containing movies, television shows or other forms of video entertainment, including, but not limited to, *The American* and *The Limits of Control*. The authoring of the Focus Features DVD and Blu-Ray discs, with their content-addressing features (e.g. illustrated chapter/scene selection) along with the authoring equipment, and/or sale of the authored discs, infringe one or more claims of the '514 Patent. Upon information and belief, Focus Features either performs the authoring or directs and controls the authoring through contract.

49. Not used.

50. Not used.

51. Not used.

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56. Not used.

57. Upon information and belief, Paramount manufactures, uses, sells, offers to sell and/or distributes DVD and Blu-Ray discs containing movies, television shows or other forms of video entertainment, including, but not limited to, *Star Trek*. The authoring of the Paramount Pictures Corp. DVD and Blu-Ray discs, with their content-addressing features (e.g. illustrated chapter/scene selection) along with the authoring equipment, and/or sale of the authored discs, infringe one or more claims of the '514 Patent. Upon information and belief, Paramount either performs the authoring or directs and controls the authoring through contract.

58. Not used.

59. Not used.

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61. Not used.

62. Not used.

63. Not used.

64. Upon information and belief, Universal manufactures, uses, sells, offers to sell and/or distributes DVD and Blu-Ray discs containing movies, television shows or other forms of video entertainment, including, but not limited to, *Baby Mama*. The authoring of the Universal DVD and Blu-Ray discs, with their content-addressing features (e.g. illustrated chapter/scene selection) along with the authoring equipment, and/or sale of the authored discs, infringe one or more claims of the '514 Patent. Upon information and belief, Universal either performs the authoring or directs and controls the authoring through contract.

65. Not used.

66. Not used.

67. Not used.

68. Not used.

69. Not used.

70. Not used.

71. Not used.

72. Upon information and belief, Private Media manufactures, uses, sells, offers to sell and/or distributes DVD and Blu-Ray discs containing movies, television shows or other forms of video entertainment, including, but not limited to, *Cum to Ibiza*. The authoring of the Private Media DVD and Blu-Ray discs, with their content-addressing features (e.g. illustrated chapter/scene selection) along with the authoring equipment, and/or sale of the authored discs, infringe one or more claims of the '514 Patent. Upon information and belief, Private Media either performs the authoring or directs and controls the authoring through contract.

73. Not used.

74. Not used.

75. Upon information and belief, VCX manufactures, uses, sells, offers to sell and/or distributes DVD and Blu-Ray discs containing movies, television shows or other forms of video entertainment, including, but not limited to, *Caprisious*. The authoring of the VCX DVD and Blu-Ray discs, with their content-addressing features (e.g. illustrated chapter/scene selection) along with the authoring equipment, and/or sale of the authored discs, infringe one or more claims of the '514 Patent. Upon information and belief, VCX either performs the authoring or directs and controls the authoring through contract.

76. Defendants have actual notice of the '514 Patent at least as early as the filing of this Original Complaint.

77. Upon information and belief, Defendants are infringing one or more claims, including but not limited to claim 6 of the '514 Patent under 35 U.S.C. § 271 by performing, without authority, one or more of the following acts: (i) making, using, offering to sell, and/or selling within the United States the patented information of one or more claims of the '514 Patent or a product made by the patented process of one or more claims of the '514 Patent; (ii) importing into the United States the patented invention of one or more claims of the '514 Patent or a product made by the patented process of one or more claims of the '514 Patent; and/or (iii) indirectly infringing one or more claims of the '514 Patent by means of jointly infringing and/or inducing infringement through directly contracting with and/or directing contractors to perform infringing acts on their behalf.

78. Patent Harbor has been damaged as a result of Defendants' infringing conduct. Thus, Defendants are liable to Patent Harbor in an amount that adequately compensates Patent Harbor for the Defendants' respective infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 § U.S.C. 284.

79. The Defendants will continue to infringe the claims of the '514 Patent unless a post judgment royalty is awarded.

80. Patent Harbor is in compliance with the requirements of 35 U.S.C. § 287, to the extent applicable.

81. As a result of the Defendants' acts of infringement, Patent Harbor has suffered and will continue to suffer damages in an amount to be proved at trial.

PRAYER FOR RELIEF

Patent Harbor prays for the following relief:

- A. A judgment that the Defendants have infringed the '514 Patent as alleged herein, directly and/or indirectly by way of inducing infringement of the '514 Patent, as alleged herein;
- B. A judgment and order requiring Defendants to pay Patent Harbor compensatory damages in an amount no less than a reasonable royalty under 35 U.S.C. § 284.
- C. A judgment and order requiring Defendants to pay Patent Harbor pre-judgment and post-judgment interest on the damages awarded;
- D. A judgment and order that the Defendants pay Patent Harbor an on-going post-judgment royalty for future acts of infringement, at a rate to be determined by the jury or the Court; and
- E. Any and all other relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Patent Harbor, LLC hereby demands that all issues be determined by a jury.

August 10, 2012

Respectfully submitted,

/s/ Keith A. Rutherford

Keith A. Rutherford

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**COUNSEL FOR PLAINTIFF
PATENT HARBOR, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of August, 2012, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, Tyler Division, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Nanci D. Mohr