

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

**FASTVDO LLC,**

**Plaintiff,**

**v.**

**VUDU, INC.,**

**Defendant.**

**Civil Action No.**

**DEMAND FOR JURY TRIAL**

**COMPLAINT**

Plaintiff FastVDO LLC (“FastVDO”) alleges as follows:

**PARTIES**

1. FastVDO is a Florida limited liability corporation with a principal place of business at 750 N. Atlantic Ave., Cocoa Beach, FL 32931.
2. On information and belief, Vudu, Inc. (“Vudu”) is a Delaware corporation with a principal place of business at 2980 Bowers Ave, Santa Clara, CA 95051.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*, including § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
4. This Court has personal jurisdiction over Vudu because, among other reasons, Vudu is incorporated under the laws of the State of Delaware, and Vudu has conducted and continues to conduct regular and ongoing business in Delaware. Additionally, on information and belief, Vudu has committed direct and indirect acts of infringement in this District by making, using, importing, offering for sale, and/or selling infringing products, and inducing others to perform method steps claimed by FastVDO’s patent in Delaware.
5. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because, among other reasons, Vudu is incorporated under the laws of the State of Delaware, and

Vudu has conducted and continues to conduct regular and ongoing business in Delaware. Additionally, on information and belief, Vudu has committed direct and indirect acts of infringement in this District by making, using, importing, offering for sale, and/or selling infringing products, and inducing others to perform method steps claimed by FastVDO's patent in Delaware.

## COUNT I

### (Infringement of U.S. Patent No. RE 40,081)

6. FastVDO is the owner by assignment and merger of United States Patent No. RE 40,081 ("the '081 patent"), entitled "Fast Signal Transforms With Lifting Steps." The '081 patent reissued on February 19, 2008, based on an initial application filed December 16, 1998. A true and correct copy of the '081 patent is attached hereto as Exhibit A. The '081 patent enables digital video compression through the coding and decoding of blocks of digital image intensities with a block coder and transform coder that utilizes an invertible linear transform having a +/- butterfly step, a lifting step, and a scaling factor. International Telecommunications Union – Telecommunication Standardization Sector (ITU-T) H.264 (also known as MPEG-4 Part 10, Audio Video Coding or AVC) (herein "H.264") is a video compression standard that performs digital image compression by coding and decoding blocks of digital image intensities with a block coder and with a transform coder that includes an invertible linear transform, which is representable as a cascade using at least one +/-1 butterfly step, at least one lifting step, and at least one scaling factor. The FastVDO patent is essential to the H.264 standard, and it was properly identified to the International Telecommunications Union on May 14, 2003, before the promulgation of the H.264 standard in March 2005.

7. On information and belief, in violation of one or more provisions of 35 U.S.C. § 271, Vudu has infringed one or more claims of the '081 patent by making, using, importing, selling, offering to sell products or services that use H.264 to encode and decode video.<sup>1</sup>

---

<sup>1</sup> See <http://www.pcmag.com/article2/0,2817,2331569,00.asp> ("All Vudu films are offered in the H.264 video codec, but the difference with HDX is in the encoding. By using a highly efficient encoding process, the result is a better-looking and – sounding file that takes up the same amount

Additionally, Vudu has had knowledge of the ‘081 patent since at least November 8, 2012,<sup>2</sup> or alternatively since being served with this complaint, and Vudu has induced infringement of the ‘081 patent since this time by performing method steps claimed by the ‘081 patent and causing its customers to perform the remaining claim steps. For example, Vudu is encoding videos with H.264 and transmitting these videos to its customers for decoding with H.264 compliant devices and viewing. Additionally, Vudu encourages and assists its customers’ performance of method steps claimed by the ‘081 patent with its marketing materials, advertising materials, manuals and customer support services. For example, Vudu advertises on its website, that its customers can connect to Vudu with a variety of devices that are H.264 compliant, such as the VIZIO VBR200W<sup>3</sup>:



of space as a regular H.264 file.”) (attached hereto as Exhibit B); *see also* [http://blog.streamingmedia.com/the\\_business\\_of\\_online\\_vi/2010/03/a-detailed-look-at-vudu-streaming-technology-and-what-it-means-to-walmart.html](http://blog.streamingmedia.com/the_business_of_online_vi/2010/03/a-detailed-look-at-vudu-streaming-technology-and-what-it-means-to-walmart.html) (“Today, Vudu uses both Limelight and Akamai to deliver their videos to third party devices and encodes all of their content in H.264 for SD, HD, and VUDU’s proprietary HDX quality. VUDU is doing multiple encodes which takes advantage of their own in-house adaptive streaming technology for the delivery.”) (attached hereto as Exhibit C).

<sup>2</sup> See Exhibit D.

<sup>3</sup> See <http://www.vudu.com/devices.html>.

The specification for the VIZIO VBR200W shows that this device is H.264 compliant:

VIZIO VBR200W User Manual

## Specifications

Specifications	
Resolution Supported	Blu-ray Disc Resolutions of 1080p (HDMI Out) 1080i / 720p / 480i / 480p (HDMI / Component Out) DVD, DVD-R, DVD-RW Selectable Resolutions of 1080p (HDMI) 1080i / 720p / 480i / 480p (HDMI / Component Out)
Video Features	Macrovision 7.1, HDCP, HDMI 1.3, MPEG-2 / VC-1, H.264/AVC, WMV, AVCHD, JPEG
Audio Features	CD, CD-R, CD-RW, MP3, WMA Support 7.1 Digital Audio via HDMI 24-bit / 192KHz Audio DAC
Encryption Supported	
Content Providers	Netflix, Vudu, Pandora

See VBR200W User Manual.<sup>4</sup> By continuing the aforementioned activities with knowledge of the '081 patent and its essentiality to the H.264 standard, Vudu has known, or should have known, that it was inducing infringement by causing the method steps of the '081 patent to be performed.

### **PRAYER FOR RELIEF**

FastVDO prays for the following relief:

1. A judgment that Vudu has directly infringed (either literally or under the doctrine of equivalents) one or more claims of the '081 patent;
2. A judgment that Vudu has induced the infringement of one or more claims of the '081 patent;

<sup>4</sup> Available at [http://vizio.com/documents/downloads/accessories/VBR200W/39810-0351%20VBR200W\\_Final7.pdf](http://vizio.com/documents/downloads/accessories/VBR200W/39810-0351%20VBR200W_Final7.pdf) (attached hereto as Exhibit E).

3. A permanent injunction enjoining Vudu and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with them, from infringing each of the '081 patent;
4. An award of damages resulting from Vudu's acts of infringement in accordance with 35 U.S.C. § 284;
5. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to FastVDO its reasonable attorneys' fees;
6. A judgment and order requiring Vudu to provide an accounting and to pay supplemental damages to FastVDO, including without limitation, pre-judgment and post-judgment interest; and
7. Any and all other relief to which FastVDO may show itself to be entitled.

**DEMAND FOR JURY TRIAL**

FastVDO demands a trial by jury on all issues so triable.

Dated: November 9, 2012

FARNAN LLP

/s/ Brian E. Farnan

Joseph J. Farnan, III (Bar No. 3945)  
Brian E. Farnan (Bar No. 4089)  
919 North Market Street, 12<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 777-0300  
bfarnan@farnanlaw.com

*Attorneys for Plaintiff  
FastVDO, LLC*

Of Counsel:

Alexander C.D. Giza  
Marc A. Fenster  
Kevin P. Burke  
RUSS, AUGUST & KABAT  
12424 Wilshire Boulevard, 12th Floor  
Los Angeles, CA 90025-1031

(310) 826-7474  
agiza@raklaw.com  
mfenster@raklaw.com  
kburke@raklaw.com