

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

SYNCHVIEW TECHNOLOGIES, LLC,

Plaintiff,

v.

FUBOTV INC.,

Defendant.

CIVIL ACTION FILE

NO. _____

Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff SynchView Technologies, LLC (“SynchView” or “Plaintiff”) files this Complaint for Patent Infringement against Defendant Fubo TV Inc. (“Fubo” or “Defendant”), and states as follows:

THE PARTIES

1. Plaintiff is a limited liability company organized and existing under the laws of the State of Georgia, having its principal office at 4725 Peachtree Corners Circle, Suite 230, Atlanta, GA 30092.

2. Defendant is a Delaware corporation with a principal office at 1330 Avenue of the Americas, 7, 9th Floor, New York, New York 10013.

JURISDICTION AND VENUE

3. This Court has exclusive subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1338(a) on the grounds that this action arises under the Patent Laws of the United States, 35 U.S.C. § 1 et seq., including, without limitation, 35 U.S.C. §§ 271, 281, 284, and 285.

4. This Court has personal jurisdiction over Defendant on the grounds that Defendant has its principal office in this State. This Court also has personal jurisdiction over Defendant because Defendant has minimum contacts with the State of New York, and has purposefully availed itself of the privileges of conducting business in this State and in this Judicial District. For example, on information and belief, Defendant has offered to sell or rent, and has sold or rented, infringing products or services in the State of New York and in this Judicial District.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1400(b) on the grounds that Defendant has committed acts of infringement and has a regular and established place of business in this Judicial District.

FACTUAL BACKGROUND

6. Plaintiff is the owner by assignment of all right, title and interest in and to United States Patent Number 6,788,882 B1, entitled “Systems and Methods

for Storing a Plurality of Video Streams on Re-Writable Random-Access Media and Time- and Channel-Based Retrieval Thereof” (“the ’882 Patent”), including the right to sue for all past, present, and future infringement, which assignment was duly recorded in the United States Patent and Trademark Office (“USPTO”).

7. A true and correct copy of the ’882 Patent is attached hereto as Exhibit A. The ’882 Patent is incorporated herein by reference.
8. The application that became the ’882 Patent was filed on April 17, 1998, and was assigned U.S. patent application number 09/062,022 (“the ’022 Application”).
9. The ’882 Patent issued on September 7, 2004, after a full and fair examination by the United States Patent Office.
10. The ’882 Patent is valid and enforceable.

SUBJECT MATTER OF THE ’882 PATENT

11. The ’882 Patent recognized that, by the time the ’022 Application was filed in 1998, television viewers wanted to have greater control over their viewing experience: “As viewer habits change and the choice of programming (channels) grows, people want to adapt television programming to their schedule, rather than the other way around.” [’882 Patent 1:20-23].

12. Moreover, by the time the '022 Application was filed in 1998, viewers had grown accustomed to the capability of VCRs to record a program for later viewing. However, VCRs offered limited flexibility in how a user could record programs, advance forward or backward within a program, and "surf" between programs:

The VCR, although extremely successful as a consumer device, has limited flexibility when the number of television channels increases. Also, the consumer has to remember to program the VCR to record the event. Commercially-available VCR+® technology has somewhat facilitated the process, but still requires tape management, scheduling and remembering when and what to program.

One frequently employed method of viewing television involves rapidly browsing ("surfing") television channels to search for a program of interest, to watch several programs at once, or to skip ubiquitous commercials. Surfing has become even more popular given the advent of cable and satellite television, wherein many dozens of channels are available for viewing at any given time. On currently available single-screen systems, surfing must be done in real time and as time progresses. In other words, a user can watch one channel and record another channel on a VCR, but the user cannot watch a recorded program and simultaneously record another (unless the user is endowed with multiple VCRs).

[’882 Patent at 1:24-48.]

13. The '882 Patent recognized that these problems required a technical solution:

Therefore, what is needed in the art is a fundamental increase in the flexibility afforded a user in viewing programs aired over multiple channels. Moreover, what is needed in the art is a way of harnessing the power of

digital computers to give the user more power in determining what he wants to watch,” in order to provide “a fundamental increase in the flexibility afforded a user in viewing programs aired over multiple channels.

[’882 Patent at 1:54-60.]

14. The ’882 Patent provides technical solutions to these and other deficiencies in the prior art: “To address the above-discussed deficiencies of the prior art, the present invention provides a digital video recorder (DVR) and a method of operating the same.” [’882 Patent at 1:63-65.]

15. For example, the ’882 Patent addresses one deficiency in the art by providing that:

In one embodiment, the DVR includes: (1) a mass data storage unit that concurrently and continuously receives and digitally stores a plurality of channels and (2) a channel viewer, coupled to the mass data storage unit, that retrieves a portion of one of the plurality of channels from the mass data storage unit based on a received command and presents the portion on a video display device.

[’882 Patent at 1:65-2:5.]

16. As the ’882 Patent explains, this addresses a deficiency in VCR technology:

The digital video recorder of the present invention remedies the shortcomings of traditional video recording methods. The DVR does this by combining an essentially limitless (only limited by the cost of the equipment) capability concurrently to record a number of channels on a random-access medium while being able concurrently to play back any of these channels for viewing.

[’882 Patent at 2:9-16.]

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