

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

BROADBAND iTV, INC.,

Plaintiff,

v.

AT&T SERVICES, INC., and
AT&T COMMUNICATIONS, LLC,

Defendants.

Case No. 6:19-cv-712

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Broadband iTV, Inc. ("BBiTV"), by and through the undersigned counsel, hereby files this complaint ("Complaint") and makes the following allegations of patent infringement relating to U.S. Patent Nos. 10,028,026, 10,349,101, 9,998,791, and 9,648,388 against Defendants AT&T Services, Inc. and AT&T Communications, LLC (collectively, "AT&T") and alleges as follows upon actual knowledge with respect to itself and its own acts and upon information and belief as to all other matters:

NATURE OF THE ACTION

1. This is an action for patent infringement. BBiTV alleges that AT&T infringes U.S. Patent Nos. 10,028,026 (the "'026 Patent"), 10,349,101 (the "'101 Patent"), 9,998,791 (the "'791 Patent"), and 9,648,388 (the "'388 Patent") copies of which are attached hereto as Exhibits A-D (collectively, "the Asserted Patents").

2. BBiTV alleges that AT&T directly and indirectly infringes the Asserted Patents by making, using, offering for sale, selling and importing, among other things, set-top boxes ("STBs") and mobile device apps that provide certain novel video-on-demand ("VOD") functionalities. AT&T also induces and contributes to the infringement of others including its users, customers, agents, or other third parties. BBiTV seeks damages and other relief for

AT&T's direct and indirect infringement of the Asserted Patents.

THE PARTIES

3. BBiTV is a Delaware corporation headquartered at 201 Merchant Street, Suite 1830, Honolulu, Hawaii 96813.

4. BBiTV holds all substantial rights, title and interest in and to the Asserted Patents.

5. Upon information and belief, Defendant AT&T Services, Inc. is a Delaware corporation with a place of business at 175 E. Houston Street, San Antonio, Texas 78205 and with a registered agent for service of process at CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

6. On information and belief, Defendant AT&T Communications, LLC is a Delaware limited liability company with a principal place of business at 208 South Akard Street, Dallas, Texas 75202 and with a registered agent for service of process at The Corporation Trust Company, 1209 Orange St., Wilmington, Delaware 19801.

JURISDICTION AND VENUE

7. This action for patent infringement arises under the Patent Laws of the United States, 35 U.S.C. § 1 et. seq. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1338.

8. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b), (c) and § 1400(b) because AT&T has a regular and established place of business in this District, including at 175 E. Houston, San Antonio, Texas 78205; has committed acts within this District giving rise to this action; and AT&T continues to conduct business in this District, including one or more acts of selling, using, importing, and/or offering for sale infringing products or providing support service to AT&T's customers in this District. Upon information and belief, AT&T conducts business in this District at, *inter alia*, 1428 Wooded Acres Drive, Suite 120, Waco, Texas 76710; 1515 Hewitt Drive, Suite A, Waco, Texas 76712; 2320 W. Loop 340, Suite 100A, Waco, Texas 76711; 4265 Interstate 35 N., Waco, TX 76705; and 4330 W. Waco Drive, Waco, Texas 76710.

9. AT&T is subject to this Court’s specific and general personal jurisdiction pursuant to due process or the Texas Long Arm Statute, due at least to AT&T’s substantial business in this forum, including: (i) business related to infringing acts as alleged herein; or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this District. Within this state, AT&T has used the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, AT&T has derived revenues from its infringing acts occurring within the Western District of Texas. Further, AT&T is subject to the Court’s general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities in Texas and the Western District of Texas. Further, AT&T is subject to the Court’s personal jurisdiction at least due to its sale of products or services within Texas and the Western District of Texas. AT&T has committed such purposeful acts or transactions in Texas such that they reasonably should know and expect that they could be haled into this Court because of such activity.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 10,028,026

10. The allegations of paragraphs 1-9 of this Complaint are incorporated by reference as though fully set forth herein.

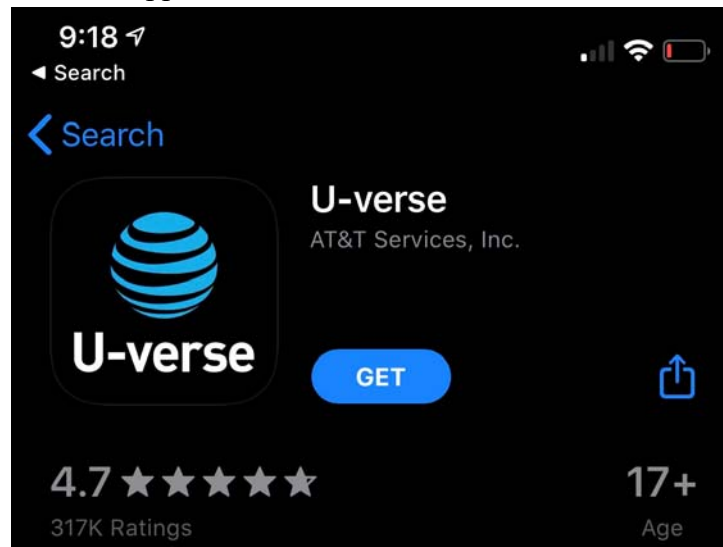
11. The ’026 Patent, titled “System for addressing on-demand TV program content on TV services platform of a digital TV services provider,” issued on July 17, 2018. A copy of the ’026 Patent is attached as Exhibit A.

12. Pursuant to 35 U.S.C. § 282, the ’026 Patent is presumed valid.

13. Upon information and belief, AT&T makes, uses, offers for sale, and/or sells in the United States and/or imports into the United States products and services that provide AT&T’s subscribers with video on-demand (“VOD”) services using set-top boxes (“STBs”) and mobile device apps (collectively the “Accused ’026 Patent Products”). Specifically, AT&T, by and through its various operator subsidiaries, provides Internet-connected STBs such as AT&T

U-verse for receiving, via the Internet, video content to be viewed by VOD system subscribers. Likewise, AT&T provides such mobile device apps, such as the AT&T U-verse App available for iOS devices on Apple's App Store and for Android devices on Google Play that are downloaded to subscribers' Internet-connected devices—including smartphones and tablets—for receiving, via the Internet, video content to be viewed by VOD system subscribers. *See* <https://apps.apple.com/us/app/u-verse/id312886438>;

<https://play.google.com/store/apps/details?id=com.att.android.uverse>.



14. Upon information and belief, the Accused '026 Patent Products infringe at least claims 1, 3, 5, 8, and 11 of the '026 Patent in the exemplary manner described below.

15. As to claim 1, AT&T provides an Internet-connected digital device, including a set-top box for receiving, via the Internet, video content to be viewed by a subscriber of a video-on-demand system. AT&T additionally provides software (*e.g.*, a mobile device app such as AT&T U-Verse) for which a third-party Internet-connected device (*e.g.*, a smartphone or tablet) receives, via the Internet, video content to be viewed by a subscriber of a video-on-demand system. In many cases, AT&T also provides smartphones to its U-Verse subscribers, and encourages U-Verse subscribers to obtain smartphones from AT&T by offering discounts on U-Verse packages to those who also subscribe to a wireless plan from AT&T.



Compare U-verse TV packages

U-BASIC TV	U-FAMILY TV	U200 TV	U300 TV	U450 TV
30+ channels	180+ channels	370+ channels	485+ channels	550+ channels
\$19/mo. plus taxes	\$59.99/mo. for 12 months plus taxes	\$79.99/mo. for 12 months plus taxes	\$84.99/mo. for 12 months plus taxes	\$134.99/mo. for 12 months plus taxes
Up to \$799 Broadcast & Adstl Fees apply. See details Everyday favorites	w/12 mo. agmt. & qualifying AT&T wireless svc. (mtn. \$50/mo. after discounts for new customers). AutoPay & paperless bill req'd. Up to \$799/mo. Broadcast & adstl fees apply.* Incl. unlimited data allowance (\$30 value) at no adstl charge. See details HD included, plus: Family Hallmark Channel	w/12 mo. agmt. & qualifying AT&T wireless svc. (mtn. \$50/mo. after discounts for new customers). AutoPay & paperless bill req'd. Up to \$799/mo. Broadcast & adstl fees apply.* Incl. unlimited data allowance (\$30 value) at no adstl charge. See details HD included, plus: ESPN CNN	w/12 mo. agmt. & qualifying AT&T wireless svc. (mtn. \$50/mo. after discounts for new customers). AutoPay & paperless bill req'd. Up to \$799/mo. Broadcast & adstl fees apply.* Incl. unlimited data allowance (\$30 value) at no adstl charge. See details HD and premiums, including: SHOWTIME STARZ THE MOVIE CHANNEL	w/12 mo. agmt. & qualifying AT&T wireless svc. (mtn. \$50/mo. after discounts for new customers). AutoPay & paperless bill req'd. Up to \$799/mo. Broadcast & adstl fees apply.* Incl. unlimited data allowance (\$30 value) at no adstl charge. See details HD and premiums, including: HBO CINEMAX SHOWTIME

Source: <https://www.att.com/tv/packages.html>

Take the U-verse experience with you with the U-verse App. Watch Live TV and On Demand shows, manage your DVR, and use the app as a remote control.

With AT&T Data Free TV, stream U-verse Live and On Demand shows anywhere, without using mobile data! Only with AT&T and U-verse.*

Live TV
Watch Live TV in the palm of your hand! Watch even more channels live when connected to your home network.

On Demand
Watch on your schedule! Choose from thousands of On Demand movies and shows from top networks.

My U-verse Homepage
Personalize your U-verse experience by adding your favorite shows, channels, and people to My U-verse Favorites. The new Homepage highlights the shows that you care about most and recommends new shows for you to discover.

Guide
Browse or search your personal TV programming guide to find your favorite shows. Schedule one-time or series recordings on your DVR at home.

Remote Control
Control your home TV receivers with the remote control feature.†

Recordings
Easily manage your scheduled and recorded shows on your U-verse DVR at home.

Settings
Set Parental Controls and Notifications, manage your receivers, find support tools and more.

Requires qualifying device, U-family or higher TV plan and Wi-Fi or data connection. Content may vary by device, TV plan, and viewing location. Data charges may apply.
*DATA FREE TV: Residential U-verse customers and select wireless customers only. Available only in the U.S. (excludes Puerto Rico and U.S. Virgin Islands). Data usage does not count against your data allotments. Exclusions apply and may incur data usage. Eligible Wireless: Requires a compatible device and postpaid data service or eligible prepaid monthly plan, on eligible device. Please see <http://www.att.com/prepaysponsoredata> for a list of eligible AT&T PREPAID monthly plans. Must not have data block on line. AT&T wireless usage subject to AT&T's service terms, conditions, restrictions, and network management practices, including speed reduction. Streaming may not work at reduced speeds. Eligible U-verse: Content may vary by TV package and, viewing location. All functions and programming subject to change at any time. Offer subject to change and may be modified or discontinued at any time without notice.

†U-verse Internet service and qualifying device required.

This app features Nielsen's proprietary measurement software which will allow you to contribute to market research, like Nielsen's TV Ratings. Please see <http://www.nielsen.com/digitalprivacy> for more information.

Source: U-verse on Apple App Store, <https://apps.apple.com/us/app/u-verse/id312886438>

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