

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

CATONIAN IP MANAGEMENT, LLC,

Plaintiff,

v.

**CEQUEL COMMUNICATIONS, LLC,
AND NEPTUNE HOLDING US
CORP.,**

Defendants.

CIVIL ACTION NO. 2:17-cv-190

PATENT CASE

JURY TRIAL DEMANDED

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT AGAINST CEQUEL
COMMUNICATIONS, LLC AND NEPTUNE HOLDING US CORP.**

Plaintiff Catonian IP Management, LLC files this Original Complaint for Patent Infringement against Defendants Cequel Communications, LLC, and Neptune Holding US Corp. (collectively “Defendants”), pursuant to Rule 15(a)(1)(B), Fed.R.Civ.P., and respectfully shows the Court as follows:

I. THE PARTIES

1. Plaintiff Catonian IP Management, LLC (“Catonian” or “Plaintiff”) is a Texas limited liability company with its principal place of business in the Eastern District of Texas at 5068 W. Plano Parkway, Suite 300, Plano, TX 75093.

2. On information and belief, Defendant Cequel Communications, LLC (“Cequel”), is a limited liability company organized and existing under the laws of the State of Delaware, with a place of business at 12444 Powerscourt Dr., Suite 450, St Louis, MO 63131.

3. On information and belief, Defendant Neptune Holding US Corp. (“Neptune”), is a corporation organized and existing under the laws of the State of Delaware, with a place of business at 1111 Stewart Ave., Bethpage, NY 11714.

II. JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction of such action under 28 U.S.C. §§ 1331 and 1338(a).

5. On information and belief, Defendants have a regional headquarters in Tyler, Texas, and a customer call center in Tyler, Texas, and/or provide their full range of cable services to residents in Tyler, Texas through their brand Suddenlink Communications. On information and belief, Defendants are subject to this Court's specific and general personal jurisdiction, pursuant to due process and the Texas Long Arm Statute, due at least to their substantial business in this forum, including at least a portion of the infringements alleged herein and their presence in this forum.

6. Without limitation, on information and belief, within this state, Defendants have used the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, on information and belief, Defendants have derived substantial revenue from their infringing acts occurring within the State of Texas and this Judicial District. Further, on information and belief, Defendants are subject to this Court's general jurisdiction by 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 the State of Texas and in this Judicial District. Further, on information and belief, Defendants are subject to this Court's personal jurisdiction at least due to their sale of products and/or services within the State of Texas and within this Judicial District. Defendants have committed such purposeful acts and/or transactions in the State of Texas and in this Judicial District, such that they reasonably should know and expect that they could be hailed into this Court due to such activity.

For example, Defendants (as Suddenlink) provide the accused service that performs the steps of the patented inventions in many cities in the Eastern District of Texas including: Allen, Alto, Athens, Aubrey, Big Sandy, Bullard, Canton, Carthage, Center, Chandler, Clarksville, Crockett, Daingerfield, Dayton, Flint, Frisco, Gainesville, Grapeland, Hawkins, Jacksonville, Kilgore, Lindale, Livingston, Longview, Lufkin, Marshall, McKinney, Mount Vernon, Nacogdoches, Overton, Palestine, Rusk, San Augustine, Sherman, Sulfur Springs, Tyler, Whitehouse and Whitesboro.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, Defendants have sufficient contacts with the State of Texas and this Judicial District such that this Court is a fair and reasonable venue for the litigation of this action. On information and belief, from and within this District, Defendants have committed at least a portion of the infringements at issue in this case. In addition, on information and belief, Defendants have derived substantial revenues from their infringing acts and are subject to personal jurisdiction in this Judicial District for at least the reasons identified above, including at least their sale of products and/or services within the State of Texas and from this Judicial District.

8. For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

III. COUNT I
PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 8,799,468

9. Plaintiff incorporates the above paragraphs herein by reference.

10. On August 5, 2014, United States Patent No. 8,799,468 (“the ‘468 Patent”) was duly and legally issued by the United States Patent and Trademark Office. The ‘468 Patent is titled “System for Regulating Access to and Distributing Content in a Network.” The application leading to the ‘468 Patent was filed on February 8, 2012, is a continuation of an application filed on

November 16, 2004, and is related to three earlier provisional applications filed in 2003 and 2004. A true and correct copy of the '468 Patent is attached hereto as Exhibit A and incorporated herein by reference.

11. Catonian is the assignee of all right, title and interest in the '468 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '468 Patent. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the '468 Patent by the Defendants.

12. The invention in the '468 Patent relates to regulation of access to a network and, more particularly, to distributing content efficiently while protecting the digital intellectual property rights associated with the content. (Ex. A at col. 1:17-20). The Internet and private or managed networks provide a convenient medium for the delivery of electronic data or content to subscribers. (*Id.* at col. 1:24-28). For example, services providers, such as cable television providers, provide subscribers with devices capable of presenting electronic content, such as videos, to subscribers. (*Id.* at col. 1:29-41). However, there were problems delivering content efficiently and rapidly while also protecting the content owners' rights. (*Id.* at col. 1:43-46). Protecting the content owners' intellectual property rights is often referred to as Digital Rights Management ("DRM"). (*Id.* at col. 1:47-49). Both service providers and content providers need to secure the content's intellectual property by preventing illegal downloading and transmission over networks, which is a major source of lost revenue and the basis for many lawsuits. (*Id.* at col. 1:52-56).

13. The inventors recognized that the current methods for delivering content were insufficient. The inventors also realized there was a need for improved access regulation and data traffic control techniques for service providers to protect intellectual property content from illegal

downloading and transmission. The invention is therefore directed to an improved method for regulating access to content from a service provider network involving a controller node and gateway units of the service provider.

14. **Direct Infringement.** On information and belief, Defendants have been and are continuing to directly infringe at least claim 23 of the '468 Patent in the State of Texas, in this Judicial District and elsewhere in the United States, by actions comprising providing a system, for example Defendants' Suddenlink systems for Video on Demand and Pay Per View television using CableCARDS in set-top boxes, DVR systems and similar devices, and performing the steps for a method for regulating access to a service provider network in accordance with the claimed method.

15. On information and belief, Defendants perform a method for regulating access to a service provider network. For example, Defendants' Suddenlink Digital Cable system (service provider network) regulates a cable subscriber's access to various subscribed-to channels and additional services such as Impulse Pay Per View (IPPV) and Video On Demand (VOD). Defendants provide their subscribers with a host device, compatible with a CableCARD, which is then used to regulate access by the subscriber to certain streams of channels provided by Defendants. For example, Defendants provide their customers with DVRs that include a CableCARD for regulating access to content on Defendants' Suddenlink cable television system network.

(*e.g.*, <http://help.suddenlink.com/television/Pages/CableCard.aspx?product=M-Card>;

http://help.suddenlink.com/television/Documents/TiVo_Premiere_Manual.pdf at 7 of 115).

16. On information and belief, Defendants perform the step of generating, by a controller node coupled to the Suddenlink service provider network, controller instructions. For example, on information and belief, content, including audio and video, generated by a content

provider is supplied to Defendants for distribution to Suddenlink cable television subscribers. On information and belief, the content is associated with access restrictions generated at the Headend (the cable operator's facility, which acts as the source of cable signals, services and conditional access control) such as Copy Control Information (CCI) and Entitlement Management Messages (EMM), the latter containing a key to unscramble the subscribed content. CCI and EMM are controller instructions and contain information regarding services and channels subscribed-to by a specific subscriber. On information and belief, CCI is transmitted along with Entitlement Control Messages (ECM) by a Conditional Access (CA) system (available at the Headend).

17. On information and belief, Defendants perform the step of transmitting the controller instructions, by the controller node, to a plurality of gateway units of the service provider network. For example, on information and belief, the CA system at the Headend transmits conditional access information in the form of EMM and CCI information to numerous host units at the subscriber with Defendants' CableCARD, typically a set-top DTV receiver or DVR, through the out-of-band (OBB) channel.

18. On information and belief, Defendants perform the step of receiving, by the gateway units, user-entered content requests for the service provider network. For example, on information and belief, a host unit at a subscriber's location receives a request, such as subscriber-entered input by remote control) for IPPV/VOD service.

19. On information and belief, Defendants perform the step of receiving, by the gateway units, the controller instructions from the controller node. For example, on information and belief, the CableCARD in the host unit at the subscriber's location receives EMM messages containing conditional access information and ECM messages containing CCI details.

20. On information and belief, Defendants perform the step of selectively transmitting, by the plurality of gateway units, the content requests to the service provider network in accordance with the controller instructions. For example, on information and belief, channel requests received at multiple host units, as a result of a subscriber's inputs, to access IPPV/VOD content are compared to the services the user has subscribed. On information and belief, in the case a subscriber's current subscription does not support the requested content, the subscriber is prompted to make a purchase. On information and belief, after authorizing the purchase of IPPV/VOD content via the selective transmission of a content request, updated conditional access information is received from the Headend.

21. On information and belief, Defendants perform the step of transferring, by the gateway units, received content data responsive to the transmitted content requests from the service provider network. For example, on information and belief, the Headend updates the conditional access information for a particular subscriber and transmits data for the requested content to a host unit at the subscriber's location. On information and belief, the host unit transmits the conditional access information to the CableCARD that descrambles the IPPV/VOD content and transmits it back to the Defendants' host for display on a screen.

IV. COUNT II
PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 9,465,925

22. Plaintiff incorporates the above paragraphs herein by reference.

23. On October 11, 2016, United States Patent No. 9,465,925 ("the '925 Patent") was duly and legally issued by the United States Patent and Trademark Office. The '925 Patent is titled "System for Regulating Access to and Distributing Content in a Network." The application leading to the '925 Patent was filed on July 22, 2014, and is a continuation of the application that issued

as the '468 Patent. A true and correct copy of the '925 Patent is attached hereto as Exhibit B and incorporated herein by reference.

24. Catonian is the assignee of all right, title and interest in the '925 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '925 Patent. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the '925 Patent by Defendants.

25. The '925 Patent is related to the '468 Patent and, therefore, the invention in the '925 Patent also relates to regulation of access to a network and, more particularly, to distributing content efficiently while protecting the digital intellectual property rights associated with the content. (Ex. B at col. 1:23-26).

26. **Direct Infringement.** On information and belief, Defendants have been and continue to directly infringe at least claim 29 of the '925 Patent in the State of Texas, in this Judicial District and elsewhere in the United States by actions comprising providing a system, for example Defendants' Suddenlink systems for Video on Demand and Pay Per View television using CableCARDS in set-top boxes, DVR systems and similar devices, and performing the steps for a method for regulating access to a service provider network in accordance with the claimed method.

27. On information and belief, Defendants perform a method for regulating access to a service provider network. For example, Defendants' Suddenlink Digital Cable system (service provider network) regulates a cable subscriber's access to various subscribed-to channels and additional services, such as IPPV and VOD. Defendants provide their subscriber with a host device compatible with a CableCARD, which is then used to regulate access by the subscriber to certain streams of channels provided by Defendants. For example, Defendants provide their

customers with DVRs that includes a CableCARD for regulating access to content on Defendants' Suddenlink cable television system network.

(e.g., <http://help.suddenlink.com/television/Pages/CableCard.aspx?product=M-Card>;

http://help.suddenlink.com/television/Documents/TiVo_Premiere_Manual.pdf at 7 of 115).

28. On information and belief, Defendants perform the step of generating, by a controller node coupled to the service provider network, controller instructions. For example, content, including audio and video, generated by a content provider is supplied to Defendants for distribution to Suddenlink cable television subscribers. On information and belief, the content is associated with access restrictions generated at the Headend (the cable operator's facility, which acts as the source of cable signals, services, and conditional access control) such as Copy Control Information (CCI) and Entitlement Management Messages (EMM), the latter containing a key to unscramble the subscribed content. CCI and EMM are controller instructions and contain information regarding services and channels subscribed-to by a specific subscriber. On information and belief, CCI is transmitted along with Entitlement Control Messages (ECM) by a Conditional Access (CA) system available at the Headend.

29. On information and belief, Defendants perform the step of transmitting the controller instructions, by the controller node, to a plurality of network elements of the service provider network. For example, on information and belief, the CA system at the Headend transmits conditional access information in the form of EMM and CCI information to numerous host units at the subscriber with Defendants' CableCARD network elements, typically a set-top DTV receiver or DVR, through the out-of-band (OBB) channel.

30. On information and belief, Defendants perform the step of receiving by having the network elements' content request the service provide network. For example, on information and

belief, the host unit at a subscriber's location receives a request, such as user-entered input by remote control, for IPPV/VOD service (content request).

31. On information and belief, Defendants perform the step of selectively transmitting, by the plurality of network elements, the content requests to the service provider network in accordance with the controller instructions. For example, on information and belief, channel requests received at multiple host units, as a result of a subscriber's inputs, to access IPPV/VOD content are compared to the services the user has subscribed. On information and belief, in the case a subscriber's current subscription does not support the requested content, the subscriber is prompted to make a purchase. On information and belief, after authorizing the purchase of IPPV/VOD content via the selective transmission of a content request, updated conditional access information is received from the Headend.

32. On information and belief, Defendants perform the step of transferring, by the network elements, received content data responsive to the transmitted content requests from the service provider network. For example, on information and belief, the Headend updates the conditional access information with a particular subscriber and transmits data for the requested content to the host unit at the subscriber's location. On information and belief, the host unit transmits the conditional access information to the CableCARD that descrambles the IPPV/VOD content and transmits it back to the Defendant's host for display on a screen.

33. Plaintiff has been damaged as a result of Defendants' infringing conduct. Defendants are thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for Defendants' infringement of the '468 Patent and '925 Patent, *i.e.*, in an amount that by law cannot be less than a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

34. On information and belief, Defendants will continue their infringement of one or more claims of the '468 Patent and '925 Patent unless enjoined by the Court. Defendants' infringing conduct thus causes Plaintiff irreparable harm, and will continue to cause such harm without the issuance of an injunction.

35. On information and belief, Defendants have had at least constructive notice of the '468 Patent and '925 Patent by operation of law, and there are no marking requirements that have not been complied with.

V. JURY DEMAND

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court find in its favor and against Defendants, and that this Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of United States Patent Nos. 8,799,468 and 9,465,925 have been infringed, either literally and/or under the doctrine of equivalents, by Defendants;
- b. Judgment that Defendants account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendants' infringing activities and other conduct complained of herein;
- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- d. That Defendants be permanently enjoined from any further activity or conduct that infringes one or more claims of United States Patent Nos. 8,799,468 and 9,465,925; and
- e. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: March 10, 2017

Respectfully submitted,

/s/ David R. Bennett

By: David R. Bennett
(Illinois Bar No. 6244214)
(Admitted E.D. Texas)
Direction IP Law
P.O. Box 14184
Chicago, IL 60614-0184
Telephone: (312) 291-1667
e-mail: dbennett@directionip.com

Isaac Rabicoff
(Illinois Bar No. 6313775)
(Admitted E.D. Texas)
Rabicoff Law LLC
73 W Monroe St.
Chicago, IL 60603-4910
Telephone: (773) 669-4590
e-mail: isaac@rabilaw.com

**ATTORNEYS FOR PLAINTIFF
CATONIAN IP MANAGEMENT, LLC**