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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

WAG ACQUISITION, L.L.C.,

Plaintiff,

v.

**WEBPOWER, INC. d/b/a WP
Associates; and
DOES 1-20,**

Defendants.

Case No.: **2:15-cv-**

**COMPLAINT FOR PATENT
INFRINGEMENT AND
DEMAND FOR JURY TRIAL**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WAG ACQUISITION, L.L.C., for its complaint against Defendants, alleges infringement of United States Patent Nos. 8,122,141, 8,327,011, 8,185,611, and 8,364,839 (the “Patents-in-Suit”). Defendants provide live, interactive adult “webcam” programming on the Internet. Plaintiff alleges that Defendants, operating without authority or license, have used Plaintiff’s patented streaming technology to conduct this business, thereby infringing Plaintiff’s patents. Plaintiff seeks appropriate compensation for Defendants’ infringement.

THE PARTIES

1. Plaintiff WAG Acquisition, L.L.C. is a New Jersey limited liability company with its principal place of business at 3 Gold Mine Road, Suite 104, Flanders, New Jersey 07836. Plaintiff operates an Internet broadcasting business based in New Jersey, under the trade name SurferNETWORK.

2. On information and belief, Defendant WEBPOWER, INC. (“Webpower”) is a Florida corporation with its principal address at 7121 Fairway Drive, Suite 400, Palm Beach Gardens, Florida 33418; and a registered agent at Corporation Service Company, 1201 Hays Street, Tallahassee, Florida 33201-2525. On information and belief, Webpower sometimes operates under the name WP Associates.

3. On information and belief, Defendants DOE 1 – DOE 20 (the “Doe Defendants”) are individuals or entities whose precise identities are unknown to Plaintiff at this time, which operate in concert with and/or under the direction and control of Defendant Webpower in connection with the conduct complained of herein.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 et seq.

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b), in that, *inter alia* (as hereinafter alleged in detail), a substantial part of the events or omissions giving rise to the claims herein occurred in New Jersey, and in any case each Defendant is subject to the personal jurisdiction of this Court with respect to the matters in dispute in this action.

PLAINTIFF'S BUSINESS AND DEVELOPMENTS

6. Plaintiff, operating under the trade name SurferNETWORK, is in the business of providing Internet broadcasting services for live and on-demand audio and video program material. Plaintiff began this business in 1998 and has been one of the leading providers of such services to the terrestrial radio stations and other content providers that comprise its customer base.

7. Early in developing its business, two of Plaintiff's principals, William A. Grywalski, ("Grywalski") and Harry Emerson ("Emerson"), recognized a need that existed in the field of Internet delivery of broadcast media due to the shortcomings in then-current Internet streaming technologies. They observed that long startup delays due to "buffering" and frequent program interruptions (sometimes referred to as "jitter") made the experience of trying to listen to or view streaming Internet content frustrating to the end user, and therefore impractical as a content delivery mechanism. They were interested in making the Internet streaming experience more like radio or television, including the immediacy of having the programming appear to start instantly on demand (*e.g.*,

turning on a radio or flipping channels), and continue playing once started without random interruptions.

8. Plaintiff engaged the assistance of a software design engineer, Harold Price (“Price”), to develop solutions for the shortcomings that Grywalski and Emerson saw in the current technology, with respect to streaming media playback performance, as well as other technological issues concerning Internet delivery of broadcast media. Price worked on several aspects of this matter for Plaintiff over the period 1999-2001.

9. Price was aware of the then-current approach to streaming, which attempted to overcome streaming transmission delays and jitter by a variety of techniques, including, for example, establishing a content buffer of 20-seconds or so in duration, on the receiving (user or “client”) end of the communication, within the client’s media player or media player browser plugin. After the user selected (*e.g.*, clicked on) a stream, the player would start filling this buffer at the playback rate and then start playing when the buffer was full. While this method did provide some protection against interruptions for the duration of whatever content was initially buffered, it entailed an undesirable startup delay for “buffering” and provided no means for graceful recovery once the 20 seconds worth of content in the buffer was consumed.

10. Price conceived of solutions to these problems. He built a prototype that implemented one embodiment of those solutions, and he demonstrated that a

system according to his new design could overcome the problems put to him by Grywalski and Emerson.

11. Plaintiff and its predecessors in interest filed a number of U.S. patent applications on these solutions, as enumerated below. To date, these applications have resulted in a number of issued U.S. patents, including the Patents-in-Suit. All of these patent applications were assigned to Plaintiff, or to a predecessor-in-interest of Plaintiff and reassigned to Plaintiff.

12. Plaintiff has been conducting an active, operating business ever since the developments described above and has actively practiced under the technology taught in the Patents-in-Suit from then to the present. Plaintiff has developed commercial arrangements under which it streams content for numerous terrestrial radio stations and content providers in New Jersey, regionally, nationally, and internationally. It also provides a One-Click Royalty ReporterTM for radio stations to report streaming media performance royalty information to SoundExchange (a performing rights organization that collects royalties on the behalf of sound recording copyright owners), among other services.

DEFENDANTS' BUSINESS ACTIVITIES

13. The time period relevant to the patent infringement alleged herein (the "Period") runs from at least as early as February 2, 2012, the date that the first of the Patents-in-Suit issued from the United States Patent & Trademark Office, to the present. (Plaintiff further reserves the right to allege infringement of its earlier patents, and to allege infringement of its provisional patent rights under 35 U.S.C.

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