

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

ContentGuard Holdings, Inc.,

Plaintiff,

-against-

Amazon.com, Inc.; Apple Inc.; BlackBerry Corporation (fka Research In Motion Corporation); Huawei Device USA, Inc.; and Motorola Mobility LLC.

Defendants.

Civil Action No. 2:13-cv-1112

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

ContentGuard Holdings, Inc. (“ContentGuard”), by and through its undersigned attorneys, based upon personal knowledge with respect to its own actions and on information and belief as to other matters, for its complaint avers as follows:

THE PARTIES

A. ContentGuard

1. ContentGuard is a leading innovator, developer, and licensor of digital rights management (“DRM”) and related digital content distribution products and technologies. ContentGuard is a corporation organized under the laws of the state of Texas with its principal place of business at 6900 N. Dallas Parkway, Suite 850, Plano, Texas, 75024.

2. ContentGuard’s long history of innovation in the DRM space began in the 1990s at Xerox Corporation’s legendary Palo Alto Research Center (“Xerox PARC”), where brilliant scientists envisioned a future in which people would rely on the Internet to supply the broadest

array of digital content the world had ever seen. At that time, however, no one had yet invented an effective means to prevent piracy of digital content, which could be readily copied and distributed by personal computers. Many believed that the problem was essentially unsolvable—and that, as a consequence, the distribution of movies, videos, music, books, “apps,” and other digital content over the Internet would be blocked by copyright owners and others with a vested interest in protecting such content.

3. A well-known commentator—John Perry Barlow—summarized the “digitized property” challenge as follows: “If our property can be infinitely reproduced and instantaneously distributed all over the planet without cost, without our knowledge, without its even leaving our possession, how can we protect it? How are we going to get paid for the work we do with our minds? And, if we can’t get paid, what will assure the continued creation and distribution of such work? Since we don’t have a solution to what is a profoundly new kind of challenge, and are apparently unable to delay the galloping digitization of everything not obstinately physical, we are sailing into the future on a sinking ship.”

4. While they fully understood the “profoundly new kind of challenge” posed by the arrival of the Internet, Xerox PARC’s scientists had a different vision of the future, firmly believing that a solution to what Barlow called the “immense, unsolved conundrum . . . of digitized property” could in fact be found. Xerox PARC’s scientists thus began to explore DRM solutions that would not only prevent piracy, but would also enable musicians, authors, photographers, publishers, and producers to share, track, and control their content. Through a series of revolutionary inventions in the 1990s, Xerox PARC’s scientists laid the technological foundation for what would ultimately become the prevailing paradigm for distributing digital content over the Internet.

5. In 2000, Xerox Corporation partnered with Microsoft Corporation to form a new company, ContentGuard, to pursue the DRM business. Xerox contributed key personnel, as well as all of its then-existing and future DRM-related inventions and technologies to ContentGuard. In the press release announcing the formation of ContentGuard, Steve Ballmer, Microsoft's President and Chief Executive Officer, hailed ContentGuard's innovations in the DRM space, noting that "the secure and safe delivery of digital media is of primary importance to not only everyone in the business of content distribution, but consumers of this information as well." The joint Xerox and Microsoft press release announcing the formation of ContentGuard, and an advertisement produced at the time, are attached hereto as Exhibits A and B.

6. Staffed by a team of scientists and technology veterans from Xerox and Microsoft, ContentGuard continued its path of innovation, developing both hardware and software solutions to solve the vexing problem of digital piracy. ContentGuard has invested more than \$100 million to develop these DRM solutions and bring them to market.

7. ContentGuard expanded its commitment to research and innovation by developing end-to-end DRM systems and products embodying ContentGuard's inventions, an effort that continues today. ContentGuard also provided DRM research expertise to various industry players that wished to have the freedom to custom-build and operate their own DRM systems. In addition to its extensive collaboration with Microsoft, ContentGuard also partnered with companies such as Hewlett-Packard, Adobe, TimeWarner, and Accenture to assist them in developing DRM solutions.

8. To further accelerate the evolution of the marketplace for digital content, ContentGuard also led the way in enabling industry groups to better understand DRM system requirements and to develop appropriate DRM specifications and industry standards that would

allow for DRM interoperability between content providers, distributors, and device manufacturers. Among other things, recognizing the need for standardized mechanisms to facilitate trusted interoperability between DRM systems, ContentGuard engineers developed a standards-based rights description language called eXtensible Rights Markup Language (“XrML”). XrML, which is deployed in Microsoft DRM products, advanced the state of the art of rights expression languages by introducing features such as improved identification capabilities of the digital resource, user, and issuer.

9. ContentGuard’s important contributions to the DRM field have been widely recognized. The *New York Times* hailed ContentGuard as a “pioneer in th[e] field of digital-rights management.” The *Los Angeles Times* similarly noted that ContentGuard held “the technological building blocks necessary to make the digital delivery of music, movies and other files secure.” Another market commentator remarked that ContentGuard “has almost single-handedly driven DRM interoperability.”

10. To this day, ContentGuard continues to innovate and invest in researching new and innovative DRM technologies and products that enable the distribution of rich multimedia content on smartphones, tablets, e-readers, laptop computers, smart televisions, set top boxes, and other electronic devices manufactured and sold worldwide. Among other things, ContentGuard recently released an “app” under its own name that allows users to share documents, PDFs, and photos securely and privately. To determine the areas of research and development investment, ContentGuard leverages the expertise of its engineers and product development team.

11. ContentGuard’s DRM innovations remain immensely relevant—and immensely valuable—today. The availability of rich multimedia content is a key driver of the enormous

success experienced by manufacturers of devices such as smartphones, tablets, and e-readers—including Defendants—whose commercial value is largely driven by the capability of such devices to download, play, and display digital content. Without effective DRM protection, many owners of digital content would not allow their content to be available on those devices. As the president of the World Wide Web Consortium remarked in pointed language “Reject DRM and you risk walling off parts of the web.”

12. Virtually every smartphone, tablet, and e-reader produced and sold around the world relies on ContentGuard’s DRM technology. ContentGuard’s new content-sharing “app” and other products that are currently under development similarly rely on ContentGuard’s foundational DRM technology. Without that technology, many companies that invest billions of dollars to produce movies, videos, books, music, and “apps” would be unwilling to distribute such digital content over the Internet.

B. The Defendants

13. Defendant Amazon.com Inc. (“Amazon”) is a corporation organized under the laws of the State of Delaware and registered to do business in the State of Texas, with a principal place of business at 410 Terry Ave, North Seattle, WA 98109. Amazon is doing business and infringing ContentGuard’s DRM patents in the Eastern District of Texas and elsewhere in the United States.

14. Defendant Apple, Inc. (“Apple”) is a corporation organized under the laws of California and registered to do business in the State of Texas, with a principal place of business is 1 Infinite Loop, Cupertino, CA 95014. Apple is doing business and infringing ContentGuard’s DRM patents in the Eastern District of Texas and elsewhere in the United States.

15. BlackBerry Corporation (“BlackBerry,” fka Research In Motion Corporation) is a corporation organized and existing under the laws of the State of Delaware and registered to do

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