

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

C-CATION TECHNOLOGIES, LLC,

Plaintiff,

v.

COMCAST CORPORATION, CHARTER
COMMUNICATIONS, INC., CEQUEL
COMMUNICATIONS, LLC dba
SUDDENLINK COMMUNICATIONS,
CABLE ONE, INC., ALMEGA CABLE INC.,
LONGVIEW CABLE TELEVISION
COMPANY, INC., AND KILGORE VIDEO,
INC.,

Defendants.

Case No. 2:11-CV-30-MHS-CMC

Judge: Hon. Michael H. Schneider

**DEFENDANT COMCAST CABLE'S SUPPLEMENTAL INITIAL DISCLOSURES
PURSUANT TO FED. R. CIV. P. 26(a)(1)**

Pursuant to Federal Rules of Civil Procedure 26(a)(1) and 26(e)(1), and to the Court's October 3, 2012 Scheduling and Discovery Order (Dkt. No. 145), Defendants Comcast Cable Communications, LLC and Comcast of Houston, LLC (collectively, "Comcast Cable"), by and through undersigned counsel, make the following supplemental initial disclosures based on information reasonably available to Comcast Cable as of this date. Comcast Cable reserves the right to supplement and modify these disclosures as it obtains information through discovery or otherwise and becomes aware of additional individuals, documents, data compilations, or tangible things that may contain discoverable information. Comcast Cable further reserves the right to object to the use of the disclosures herein on the grounds of relevancy, competency, materiality, admissibility, hearsay, or for any other reason. Further, Comcast Cable provides these disclosures without waiving any applicable privilege, including but not limited to the attorney-client privilege and work product immunity.

By making these initial disclosures, Comcast Cable does not represent that it has identified every witness, document, data compilation, or other tangible thing that it may use to support its claims or defenses to anticipated counterclaims. Rather, these disclosures represent a

good faith effort by Comcast Cable to identify information currently available to it that falls within the scope of Rule 26(a)(1). Accordingly, these disclosures do not include information that may be used solely for impeachment purposes. Moreover, discovery is still proceeding in this action. Comcast Cable's disclosures are therefore made with the understanding that Comcast Cable does not yet know, and cannot anticipate, all of the positions that it or C-Cation Tech may take in this dispute.

These initial disclosures are organized to correspond to the general categories set forth in the Court's Scheduling and Discovery Order and Rule 26(a)(1). All of the disclosures set forth below are made subject to the above reservations and qualifications. Comcast Cable will supplement these initial disclosures as necessary.

A. The correct names of the parties to the lawsuit.

Comcast Cable Communications, LLC and Comcast of Houston, LLC are operating subsidiaries of Comcast Corporation that have been named as defendants to this lawsuit by Plaintiff C-Cation Technologies, LLC ("C-Cation"). Comcast Cable lacks sufficient knowledge or information to determine whether the names used in the parties' pleadings to refer to other parties to this lawsuit are correct.

B. The name, address, and telephone number of any potential parties.

Comcast Cable is aware of the following potential parties:

Name	Last Known Address and Telephone Number
Alexander L. Cheng	11 Hidden Glen Road Scarsdale, NY 10583
C-cation, Inc. (Delaware Corporation)	150 Purchase Street, Suite 9 Rye, NY 10580 (914) 921-2600
C-cation, Inc. (New York Corporation)	150 Purchase Street, Suite 9 Rye, NY 10580 (914) 921-2600

C. The legal theories and, in general, the factual bases of the disclosing party's claims or defenses (the disclosing party need not marshal all evidence that may be offered at trial).

Non-infringement

Comcast Cable has not directly or indirectly infringed, contributed to the infringement of, or induced the infringement of the asserted claims of U.S. Patent No. 5,563,883 ("the '883 patent"), and is not liable for any such infringement alleged by C-Cation.

Invalidity

The '883 patent and the asserted claims are invalid and/or void for failure to meet the conditions for patentability set forth in 35 U.S.C. §§ 101 et seq., and more particularly, fail to comply with the requirements of 35 U.S.C. §§ 101, 102, 103, 112 and/or 116, or are invalid pursuant to the judicial doctrine barring double-patenting.

Prosecution History Estoppel/Dedication to the Public

C-Cation's claims of infringement of the '883 patent are barred under the doctrine of prosecution history estoppel and/or other limits on the doctrine of equivalents, including without limitation dedication to the public of all methods, systems, apparatuses, and/or products disclosed in the '883 patent but not literally claimed therein.

Laches

The relief sought by C-Cation is barred in whole or in part by the doctrine of laches because it delayed filing suit for an unreasonable and inexcusable length of time after it knew or reasonably should have known of its claims against Comcast Cable, causing prejudice to Comcast Cable.

Equitable Estoppel

C-Cation and its alter egos engaged in misleading conduct, leading Comcast Cable to reasonably believe that C-Cation did not intend to enforce the '883 patent against Comcast Cable, that Comcast Cable did not infringe the '883 patent, and/or that Comcast Cable was licensed, immunized, and/or released from liability under the '883 patent. Comcast Cable relied on such misleading conduct and will be materially prejudiced if C-Cation is allowed to proceed with its claim(s).

License

The relief sought by C-Cation with respect to the '883 patent is barred in whole or in part by the existence of an express and/or implied license. C-Cation and its alter egos previously licensed and/or otherwise authorized or granted immunity to Comcast Cable with respect to the accused systems and products.

Patent Exhaustion

To the extent the alleged infringement of the '883 patent is based in whole or in part on the actions of any party licensed and/or otherwise authorized to practice claims of the '883 patent, the relief sought by C-Cation is barred under the doctrine of patent exhaustion.

Marking and Notice

C-Cation is barred in whole or in part from receiving damages for alleged infringement of the '883 patent by its failure to comply with the marking and/or notice requirements of 35 U.S.C. § 287.

Lack of Standing/Insufficient Proof of Ownership

To the extent C-Cation does not hold all substantial rights in the '883 patent, it lacks standing to assert its claims of alleged infringement of the '883 patent. Additionally, C-Cation has failed to provide adequate evidence of ownership of the '883 patent.

Ineligibility for Equitable Relief

C-Cation is barred from obtaining any equitable relief from Comcast Cable because any alleged injury to it is neither immediate nor irreparable, C-Cation has an adequate remedy at law, and granting equitable relief would not be in the public interest.

Patent Unenforceability

The '883 patent is unenforceable against Comcast Cable because C-Cation and its alter egos engaged in fraudulent and/or inequitable conduct by, among other things, improperly reviving the '883 patent after failing to pay maintenance fees to the United States Patent Office and abandoning the '883 patent.

Fraud

C-Cation and its alter egos engaged in fraudulent conduct by knowingly leading Comcast Cable to reasonably believe that C-Cation did not intend to enforce the '883 patent against Comcast Cable, and/or that Comcast Cable was licensed, immunized, and/or released from any liability under the '883 patent. Comcast Cable reasonably relied upon and suffered damages as a result of such fraudulent conduct by C-Cation and its alter egos.

D. The name, address, and telephone number of persons having knowledge of relevant facts, a brief statement of each person's connection with the case, and a brief, fair summary of the substance of the information known by such person.

Pursuant to the Court's Scheduling and Discovery Order and to Rule 26(a)(1)(A)(i),

Comcast Cable identifies the following individuals and entities:

Name	Last Known Address and Telephone Number	Connection with the Case and Substance of Information Known
Alexander L. Cheng	11 Hidden Glen Road Scarsdale, NY 10583	Named inventor of the '883 patent; Inventorship, research, development, conception, reduction to practice, prototyping, testing and test trials, and demonstration of the alleged inventions described and claimed in the patent-in-suit and related applications and patents; prior art and related subject matter, including breadth and scope of disclosure during prosecution; invalidity and unenforceability of the patent-in-suit; foreign patents, patent applications, and filings; ownership and control of the patent-in-suit and related patents; ownership, control, operations, and finances of C-cation, Inc. (NY and Delaware entities) (collectively "C-cation"), C-Cation Tech, and any and all joint ventures to which C-cation was a party (including ZSCT and RenTech); activities in China relating to the patent-in-suit; prior litigation, settlement negotiations, and terms of the settlement agreement; licensing, strategic alliances, consulting relationships, investor relations and solicitation, preparation of business plans, and related negotiations regarding the patent-in-suit and related patents
Aldo Vitagliano	150 Purchase Street, Suite 9	Member of C-Cation, shareholder of

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