

**United States District Court
Western District of Texas
Waco Division**

WAG ACQUISITION, L.L.C.,

Plaintiff,

- against -

GOOGLE LLC and
YOUTUBE, INC.,

Defendants.

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No. 6:21-cv-816
Patent Case
Jury Trial Demanded

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WAG Acquisition, L.L.C., for its complaint against Defendants, alleges as follows:

INTRODUCTION

1. Plaintiff's predecessor, known as SurferNETWORK, developed technology to improve the process of delivering streaming media over the Internet, reflected in a family of United States patents including without limitation U.S. Patent Nos. 9,742,824; 9,729,594; and 9,762,636 (the "patents-in-suit").

2. Defendants have used the technology taught and claimed in the patents-in-suit to their substantial financial benefit, to achieve responsive and stable delivery of media, including without limitation video-on-demand and live streaming programming, which Defendants provide via the Internet in the United States and worldwide, for pre-recorded and live programming, delivered to desktop, tablet, smartphone, smart TV, streaming stick, and other streaming device and media player platforms, by way of their streaming services (the “YouTube Streaming Services”).

3. Plaintiff alleges that Defendants’ Internet delivery of streaming video via the YouTube Streaming Services have infringed the patents-in-suit, as more particularly specified herein.

THE PARTIES

4. WAG Acquisition, L.L.C. is a New Jersey limited liability company with its principal place of business at 275 Route 10 East, Suite 220-313, Succasunna, New Jersey 07876.

5. Defendant Google LLC (“Google”) is a Delaware limited liability company with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043, and an address in this District at 500 West 2nd Street, Austin, Texas 78701. On information and belief, based upon

YouTube's published terms of service, in recent years, Google has taken over the operation of the YouTube website.

6. Defendant YouTube, Inc. ("YouTube") is a Delaware corporation with its principal place of business at 901 Cherry Avenue, San Bruno, California 94066, and an address in this District at 500 West 2nd Street, Austin, Texas 78701. On information and belief, YouTube has been responsible for the operation of the YouTube website for some portion of the term of the patents-in-suit.

JURISDICTION AND VENUE

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

8. This Court has personal jurisdiction over Defendants because they have engaged in systematic and continuous business activities in this District, including acts of patent infringement within this District giving rise to the claims asserted herein.

9. Defendants have established minimum contacts with this forum such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice. Defendants offer products and services in this District. Defendant Google LLC is registered to do

business in the State of Texas. Defendants have a substantial number of technical employees at their facilities in Austin, Texas. On information and belief, a substantial portion of those employees in this District are engineers who work on streaming media development and related technology. On information and belief, Defendants' technical employees within this District have committed acts of infringement on behalf of Defendants in this District, by conduct including configuring and managing YouTube servers and software for media player devices, and testing and/or using media player devices, to infringe the patents-in-suit as hereinafter alleged.

10. Further as part of said activities, on information and belief, Defendants operate in this District, at locations including Midland, El Paso, Austin, and San Antonio, "edge" distribution servers known as Google Global Cache ("GGC") servers, which are operated by Defendants' employees and stream YouTube videos in a manner alleged to be infringing hereunder, and use and distribute media player software on computer-readable media also in a manner alleged to be infringing.

11. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) because Defendants have regular and established places of business in this District and have committed acts of infringement in this District by reason, *inter alia*, of having acted in this District to configure and manage YouTube servers

for distributing streaming video, and software for media player devices, and to test and/or use media player devices, in a manner that infringes the patents-in-suit as hereinafter alleged. Defendants have further committed acts of infringement in this District by reason on their making and using GGC servers situated in this District.

THE PATENTS-IN-SUIT

12. The patents-in-suit comprise the following United States patents, which were duly and legally issued on the dates indicated:

- U.S. Patent No. 9,742,824 (the “824 patent”), Issue Date: August 22, 2017, Title: Streaming Media Delivery System. A copy of the ’824 patent is attached hereto as **Exhibit A** and incorporated herein by reference.
- U.S. Patent No. 9,729,594 (the “594 patent”), Issue Date: August 8, 2017, Title: Streaming Media Delivery System. A copy of the ’594 patent is attached hereto as **Exhibit B** and incorporated herein by reference.
- U.S. Patent No. 9,762,636 (the “636 patent”), Issue Date: September 12, 2017, Title: Streaming Media Delivery System. A copy of the ’636 patent is attached hereto as **Exhibit C** and incorporated herein by reference.

13. The patents-in-suit were developed in the course of Surfer-NETWORK’s business and were assigned by Harold Price (the inventor) to SurferNETWORK. Plaintiff now owns all rights to the patents-in-suit, including without limitation all rights to recover for infringement of the patents-in-suit.

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