

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, DC 20436

In the Matter of

Certain Digital Set-Top Boxes

Investigation

No. 337-TA-\_\_\_\_\_

ORIGINAL

COMPLAINT UNDER SECTION 337 OF  
THE TARIFF ACT OF 1930, AS AMENDED

Complainants:

Verizon Communications Inc.  
140 West Street  
New York, NY 10007  
Tel: (212) 395-1000  
Fax: (212) 962-1687

Verizon Services Corp.  
1320 North Court House Road  
Arlington, VA 22201  
Tel: (703) 351-3900  
Fax: (703) 351-3670

Counsel for Complainants:

John Thorne  
VERIZON  
1320 North Court House Road  
9th Floor  
Arlington, Virginia 22201  
Tel: (703) 351-3900  
Fax: (703) 351-3670

Leonard C. Suchyta  
John P. Frantz  
Caren K. Khoo  
VERIZON  
One Verizon Way  
Basking Ridge, NJ 07920  
Tel: (908) 559-5623  
Fax: (908) 766-6974

Mark C. Hansen  
Michael K. Kellogg  
KELLOGG, HUBER, HANSEN,  
TODD, EVANS & FIGEL, PLLC  
1615 M Street, N.W.  
Washington, DC 20015  
Tel: (202) 326-7930  
Fax: (202) 326-7999

Eric S. Namrow  
JONES DAY  
51 Louisiana Avenue, N.W.  
Washington, DC 20001  
Tel: (202) 879-5435  
Fax: (202) 626-1700

Proposed Respondent:

Cablevision Systems Corp.  
1111 Stewart Avenue  
Bethpage, NY 11714  
Tel: (516) 803-2300  
Fax: (516) 803-2575

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## I. INTRODUCTION

1. Verizon Services Corp. and Verizon Communications Inc. (“VCI”)<sup>1</sup> (collectively, “Verizon” or “Complainants”) file this Complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), based on the unlawful importation and sale after importation of certain digital set-top boxes (“STBs”).

2. The proposed respondent is Cablevision Systems Corp. and its subsidiaries and affiliates (collectively, “Cablevision” or “Respondent”).

3. This Complaint is directed to imported digital STBs designed and marketed to operate on Cablevision’s network for providing subscription video services. The accused products include, but are not limited to, the Scientific Atlanta Explorer 4250HD, the Scientific Atlanta Explorer 8300HD, and the Scientific Atlanta Explorer 4200HD. Cablevision is using these STBs to compete against Verizon and is causing Verizon significant and ongoing harm. Verizon seeks immediate relief to eliminate these harms. To facilitate resolution as close to a 12-month target date as possible, Verizon has limited this Complaint to a single claim for each of the patents it is asserting and to a single Respondent. Each of the accused products infringes claim 38 of United States Patent No. 5,666,293 (“the ’293 patent”), claim 14 of United States Patent No. 5,635,979 (“the ’979 patent”), claim 13 of United States Patent No. 6,381,748 (“the ’748 patent”), claim 14 of United States Patent No. 6,367,078 (“the ’078 patent”), and claim 5 of United States Patent No. 7,561,214 (“the ’214 patent”). Certified copies of the ’293, ’979, ’748, ’078, and ’214 patents are attached to this Complaint as Exhibits 1-5, respectively.

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<sup>1</sup> Verizon Communications Inc. is a holding company that owns, directly or indirectly, multiple subsidiaries that provide products and services to customers under the “Verizon” brand and whose revenues and expenses are rolled up into a consolidated financial report issued by Verizon Communications Inc.

4. Verizon Services Corp. and VCI are joint owners, by assignment, of the '293 patent. VCI is the owner, by assignment, of each of the '979, '748, '078, and '214 patents. By this Complaint, Verizon seeks as permanent relief an order, pursuant to Section 337(d), excluding from entry into the United States: (1) all Cablevision digital STBs that are imported into the United States by or on behalf of Cablevision, sold for importation, and/or sold or leased within the United States after importation, and that infringe one or more of the claims of the '293, '979, '748, '078, and/or '214 patents; and (2) all software intended for use on or with Cablevision's digital STBs that infringe one or more claims of these patents. Verizon also seeks a permanent cease-and-desist order, pursuant to Section 337(f), prohibiting Cablevision from: (1) importing into the United States, selling, or offering for sale and/or lease within the United States after importation, digital STBs that infringe one or more of the claims of the '293, '979, '748, '078, and/or '214 patents; (2) modifying, upgrading, or otherwise altering any software on Cablevision's digital STBs to infringe one or more claims of these patents; (3) operating its networks in combination with digital STBs, including associated software, that infringe one or more of the claims of the '293, '979, '748, '078, and/or '214 patents; and (4) inducing or contributing to infringement by use by others of digital STBs that infringe one or more of the claims of the '293, '979, '748, '078, and/or '214 patents.

## **II. THE PARTIES**

### **A. Complainants**

5. VCI is a Delaware corporation with a place of business at 140 West Street, New York, NY 10007. Verizon Services Corp. is a Delaware corporation with a place of business at 1320 North Court House Road, Arlington, VA 22201.

6. VCI is a holding company whose subsidiaries are leading providers of communications services under the "Verizon" brand to mass market, business, government, and

wholesale customers, which include a range of voice, video, and data services to residential and business customers in the United States. In 2009, Verizon had approximately \$107.8 billion in operating revenues. *See* Exhibit 7. A copy of Verizon's most recent Annual Report (for 2008) and Quarterly Earnings Statement (for 4Q 2009) are attached to this Complaint as Exhibits 6 and 7.

7. A significant and growing part of Verizon's business involves its FiOS services, which include FiOS broadband data, video, and voice services, and which are delivered to customers over a fiber-to-the-premises ("FTTP") network. Verizon is investing over \$23 billion to make FiOS services available to 18 million customer premises by the end of 2010 and has already made such services available to approximately 15.4 million of those premises.

8. Subscribers to Verizon's FiOS TV services receive a FiOS STB, which allows them access to video and broadband data content from Verizon and third-party providers. *See* Exhibit 8 (collection of technical manuals for Verizon FiOS STBs). Verizon purchases these STBs from third-party vendors (currently Motorola and soon another vendor). These STBs use software from third-party vendors and Verizon also adds some of its own proprietary software to these STBs. Verizon has a dedicated software group that is responsible for the development of the Verizon software. As of year-end 2009, there were approximately 2.9 million total FiOS TV subscribers within the regions where Verizon's FiOS TV services are available in the United States. *See* Exhibit 7.

9. Verizon's continued success depends on its innovation and development activities, including the creation of proprietary networks, systems, software, products, and services. Verizon relies on the patent system as an important part of its intellectual property program to protect the valuable technology and inventions resulting from these activities, and

currently owns or has exclusive rights to more than 2,500 patents and more than 2,000 pending patent applications covering its technologies, processes, products, and services.

**B. Proposed Respondent Cablevision**

10. On information and belief, Cablevision Systems Corp. is a Delaware corporation with its principal place of business at 1111 Stewart Avenue, Bethpage, NY 11714.

11. On information and belief, Cablevision is principally in the business of providing subscription video, data, and other communications services to customers. Cablevision provides each subscriber to its subscription digital video services with a digital STB that is necessary for the receipt of such services. These STBs are used to receive live television programs as well as a variety of advanced services, including, for example, video on demand. Exhibit 9 contains a copy of the Cablevision Optimum Reference Guide, obtained from Cablevision's website, which describes these offerings. On information and belief, Cablevision's digital STBs contain a CPU, hard disk drive, other memory, digital video chips, a modem, a broadband network interface, and numerous other components. They also contain, or are designed to receive and execute, software enabling a Cablevision subscriber to: record, view, and control television broadcasts; connect to and interact with the Cablevision service infrastructure and download data, software, and content; and receive an array of digital video, audio, and other content.

12. As discussed more fully in paragraph 45 and the exhibits referenced therein, on information and belief, Cablevision obtains its digital STBs from Scientific Atlanta (which is now part of Cisco), which, on information and belief, manufactures and/or assembles these devices at manufacturing facilities located outside the United States. Cablevision sells, leases, and/or otherwise provides these STBs to its subscribers in the United States after importation. As set forth in detail in paragraphs 46-50 and the exhibits referenced therein, Verizon's analysis

demonstrates that Cablevision's digital STBs infringe one or more claims of the '293, '979, '748, '078, and '214 patents. Cablevision also actively induces and contributes to the infringement of one or more claims of the '293, '979, '748, '078, and '214 patents, by others, including its subscribers, through the use of Cablevision's digital STBs.

13. Cablevision is using Verizon's '293, '979, '748, '078, and '214 patents without authorization to compete directly with Verizon's FiOS TV services. This is causing immediate and irreparable harm to Verizon's business. In order to remedy this acute harm to Verizon as quickly as possible, Verizon has identified a single claim of each of the '293, '979, '748, '078, and '214 patents that Cablevision infringes and brings this Complaint against a single proposed Respondent. Verizon asserts that, due to its efforts to streamline this Investigation, this Investigation should be briefed and submitted on a 12-month target date schedule, so that the hearing may be held at the first available opportunity in the Administrative Law Judge's calendar thereafter.

### **III. NON-TECHNICAL DESCRIPTION OF THE PATENTED TECHNOLOGY<sup>2</sup>**

14. The technology at issue involves STBs used in digital video distribution or other broadband distribution networks. These terminals receive video and other broadband information through a communications network and process it for display on a user's television. More advanced STBs, such as those at issue here, also offer a wide range of additional functionality, including giving users the ability to engage in interactive services, such as

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<sup>2</sup> All descriptions of the inventions herein (and in the accompanying claim charts) are presented to give a general background of those inventions. None of these statements is to be used for any other purpose, including patent claim interpretation. Verizon presents these statements subject to and without waiver of its rights to argue that claim terms in these patents should be construed, if at all, in a particular way as contemplated by claim interpretation jurisprudence and the relevant evidence.

downloading content for display on a television using an STB, or downloading applications that are executed on the STB. STBs receive and respond to user inputs, such as those from a remote control.

15. The Verizon patented technology arose out of research and development for delivering video and other services over next-generation networks, the need for STBs to communicate with these networks in order to receive such video and other services, and the need for users to be able to access such information efficiently through an STB.

16. Each of the five Verizon patents asserted here involves technologies that are directed to the use of STBs, to facilitate the delivery of video and other content and data services over communications networks and/or to enable users to access such content and data services efficiently through an STB. The '293 patent describes an STB that downloads operating system software and application software through a digital broadband channel. The '979 patent describes a dynamically programmable STB that can be updated with software to support additional functionality. The '748 patent describes an STB that can be used to access content on the Internet. The '078 patent describes an STB with user-interface software that allows users to navigate available content by category, as well as by channel. The '214 patent describes an STB with user-interface software that allows users to navigate available programs by channel, and through the selection of an "anchor" channel, by category.

17. Verizon practices each of these five patents in connection with its FiOS TV services and the STBs it provides to its subscribers of those services. These STBs are manufactured for Verizon by third parties, and contain software developed by third parties. Verizon then adds to the STBs its own proprietary software that, in conjunction with the third-party software, provides many of the functionalities that define the FiOS TV user interface and



experience. Through their STBs, FiOS TV subscribers have access to multi-channel video programs and to an Interactive Media Guide that contains information about those programs. FiOS TV subscribers are also able to download a variety of software applications – called “widgets” – to their FiOS TV STBs. Widgets allow subscribers to engage in activities such as playing games, receiving local weather and traffic information, and interacting with social networking services through televisions, STBs, and remote controls.

#### **IV. THE PATENTS AT ISSUE**

##### **A. The '293 Patent**

18. Identification and Ownership. The '293 patent, entitled “Downloading Operating System Software Through A Broadcast Channel,” issued from U.S. Patent Application Serial No. 08/498,265, filed July 3, 1995 (“the '265 Application”). The '265 Application is a continuation-in-part of Application No. 08/380,755, filed on January 31, 1995, and Application No. 08/250,791, filed on May 27, 1994. Erik C. Metz, Henry G. Hudson, Jr., and John W. Darr, Jr. are the inventors of the '293 patent. The prosecution history of the '293 patent and copies of each patent and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. *See* Appendices A and B.

19. On September 9, 1997, the Patent Office duly and legally issued the '293 patent. Verizon Services and VCI are joint owners, by valid assignment, of all right, title, and interest in and to the '293 patent. The inventors initially assigned all right, title, and interest in the '293 patent to Bell Atlantic Network Services, Inc., which is a predecessor-in-interest to Verizon Services. This assignment was recorded with the U.S. Patent and Trademark Office (“PTO”) on July 3, 1995 (Reel/Frame: 007608/0704). A change of the '293 patent assignee’s name to Verizon Services Corp. was recorded with the PTO on February 6, 2009 (Reel/Frame: 022214/0246). The '293 patent was jointly assigned to both Verizon Services Corp. and VCI.

This assignment was recorded with the PTO on February 24, 2010 (Reel/Frame: 023973/0969). Certified copies of the assignment documents for the '293 patent are attached to this Complaint as Exhibit 10.

20. Foreign Counterparts. There are no foreign patents and foreign patent applications corresponding to the '293 patent.

21. Description of Exemplary Claim. Claim 38 of the '293 patent is directed toward a digital STB (referred to as a "set-top terminal" in the '293 patent). The terminal includes a network interface module for coupling the terminal to a communications network for receiving a plurality of digital broadband channels, including at least one channel carrying compressed, digital audio/video program information in packets of a standardized format. The terminal, which contains a control processor, can receive a cyclically transmitted software control signal that includes operating system software in packets of the standardized format. The terminal captures the operating system software, stores it into an operating system memory, and operates with such software. The terminal also captures application software, stores it in a random access memory, and executes such software under the control of the operating system software. The terminal further includes an audio/video processor for processing the compressed, digital audio/video program information and a means, such as a remote control, for receiving inputs from a user.

22. Licenses. Verizon has licensed or otherwise agreed not to assert the '293 patent as part of its patent agreements with third parties, and such third parties include entities that offer products and services similar to those offered by the Respondent.

**B. The '979 Patent**

23. Identification and Ownership. The '979 patent, entitled "Dynamically Programmable Digital Entertainment Terminal Using Downloaded Software To Control Broadband Data Operations," issued from U.S. Patent Application Serial No. 08/250,791, filed May 27, 1994. Bruce Kostreski, Eugene L. Lew, Henry G. Hudson, Jr., and Daniel O'Callaghan are the inventors. The prosecution history of the '979 patent and copies of each patent and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. *See* Appendices C and D.

24. On June 3, 1997, the Patent Office duly and legally issued the '979 patent. VCI is the owner, by valid assignment, of all right, title, and interest in and to the '979 patent. The inventors initially assigned all right, title, and interest in the '979 patent to Bell Atlantic. This assignment was recorded with the PTO on August 29, 1994 (Reel/Frame: 007102/0950). Bell Atlantic later merged with GTE Corporation to become VCI, and a change of the '979 patent assignee's name to VCI was recorded with the PTO on December 30, 2009 (Reel/Frame: 023708/0905). Certified copies of the assignment documents for the '979 patent are attached to this Complaint as Exhibit 11.

25. Foreign Counterparts. There are no foreign patents and foreign patent applications corresponding to the '979 patent.

26. Description of Exemplary Claim. Claim 14 of the '979 patent is directed toward a digital STB (referred to as a "digital entertainment terminal" in the '979 patent) that can be programmed to offer a variety of services. The terminal includes a network interface module for coupling the terminal to a network. A digital broadband channel providing two-way control signaling between the terminal and the network is established through the network interface

module. A control processor controls the operations of the terminal and sends and receives control signals through the network interface module. The terminal has means, such as infrared signals from a remote control, for receiving user inputs, which correspondingly provide signals to the control processor. The terminal's system memory stores software executable by the control processor, including operating system and application software. At least some of the application software is received over the communications network. The control processor executes software received and stored in this manner to control an audio/video processor that is responsive to compressed, digital audio and video information received over the digital broadband channel. The audio/video processor includes a decoder for decompressing the compressed audio and video information and a graphics overlay controller that generates graphic display information. The video and graphics information is combined in a means, such as random-access memory, to produce a signal for driving a video display device.

27. Licenses. Verizon has licensed or otherwise agreed not to assert the '979 patent as part of its patent agreements with third parties, and such third parties include entities that offer products and services similar to those offered by the Respondent.

**C. The '748 Patent**

28. Identification and Ownership. The '748 patent, entitled "Apparatus And Methods For Network Access Using A Set Top Box And Television," issued from U.S. Patent Application Serial No. 08/853,035, filed May 2, 1997. Eric Lin and Howard S. K. Wan are the inventors. The prosecution history of the '748 patent and copies of each patent and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. *See* Appendices E and F.

29. On April 30, 2002, the Patent Office duly and legally issued the '748 patent. VCI is the owner, by valid assignment, of all right, title, and interest in and to the '748 patent. The inventors initially assigned all right, title, and interest in the '748 patent to GTE Main Street Incorporated. This assignment was recorded with the PTO on March 27, 1998 (Reel/Frame: 009155/0069). GTE Main Street Incorporated was later merged into GTE Corporation, which merger was recorded with the PTO on October 9, 2007 (Reel/Frame: 019932/0181). GTE Corporation later assigned the '748 patent to Verizon Patent and Licensing Inc, as recorded with the PTO on September 11, 2009 (Reel/Frame: 023217/0422). On March 12, 2010, Verizon Patent and Licensing Inc. assigned the '748 patent to VCI, which was recorded with the PTO (Reel/Frame024066/0708). Certified copies of the assignment documents for the '748 patent are attached to this Complaint as Exhibit 12.

30. Foreign Counterparts. A list of all foreign patents and foreign patent applications corresponding to the '748 patent, including their prosecution statuses, is attached to this Complaint as Exhibit 13.

31. Description of Exemplary Claim. Claim 13 of the '748 patent is directed toward a method that can be performed by a digital STB. This method includes: transmitting selection information to the STB for display on a television, receiving a user selection request based on the transmitted selection information, retrieving data in a network format corresponding to the user selection request, transforming the data from the network format having a first interactive element to a television format having a second interactive element, and transmitting the data in the television format to the television.

32. Licenses. Verizon has licensed or otherwise agreed not to assert the '748 patent as part of its patent agreements with third parties, and such third parties include entities that offer products and services similar to those offered by the Respondent.

**D. The '078 Patent**

33. Identification and Ownership. The '078 patent, entitled "Electronic Program-Guide System With Sideways-Surfing Capability," issued from U.S. Patent Application Serial No. 08/990,210, filed December 12, 1997. Michael Lasky is the inventor. The prosecution history of the '078 patent and copies of each patent and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. *See* Appendices G and H.

34. On April 2, 2002, the Patent Office duly and legally issued the '078 patent. VCI is the owner, by valid assignment, of all right, title, and interest in and to the '078 patent. The inventor initially assigned all right, title, and interest in the '078 patent to Tele-TV. This assignment was recorded with the PTO on December 12, 1997 (Reel/Frame: 008924/0673). The patent was later assigned to Bell Atlantic Video Services Company, which was recorded with the PTO on November 25, 2009 (Reel/Frame: 023565/0941). Bell Atlantic Video Services Company merged into Bell Atlantic Entertainment and Information Service Group. This merger was recorded with the PTO on November 24, 2009 (Reel/Frame: 023565/0950). Bell Atlantic Entertainment and Information Services Group, Inc. assigned its rights in the '078 patent to VCI, effective February 22, 2010 (Reel/Frame: 023963/0416). Certified copies of the assignment documents for the '078 patent are attached to this Complaint as Exhibit 14.

35. Foreign Counterparts. There are no foreign patents and foreign patent applications corresponding to the '078 patent.

36. Description of Exemplary Claim. Claim 14 of the '078 patent is directed toward an apparatus for providing channel selection, such as an STB. The claimed STB has a receiver that can receive a plurality of channels, and can indicate if there are two or more channels having the same category of content. The STB is configured to receive a signal that allows viewers to navigate by sequential channel number and that also is configured to receive a different signal that allows users to navigate by category of content.

37. Licenses. Verizon has licensed or otherwise agreed not to assert the '078 patent as part of its patent agreements with third parties, and such third parties include entities that offer products and services similar to those offered by the Respondent.

**E. The '214 Patent**

38. Identification and Ownership. The '214 patent, entitled "Two-Dimensional Navigation of Multiplexed Channels in a Digital Video Distribution System," issued from U.S. Patent Application Serial No. 08/963,944, filed November 4, 1997. Daniel O'Callaghan is the inventor. The prosecution history of the '214 patent and copies of each patent and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. *See* Appendix I and J.

39. On July 14, 2009, the Patent Office duly and legally issued the '214 patent. VCI is the owner, by valid assignment, of all right, title, and interest in and to the '214 patent. The inventor initially assigned all right, title, and interest in the '214 patent to Tele-TV, as recorded with the PTO on November 4, 1997 (Reel/Frame: 008870/0898). The patent was later assigned to Bell Atlantic Tele-TV Holdings, Inc., which was recorded with the U.S. Patent and Trademark Office on September 28, 2005 (Reel/Frame: 017041/0408). Bell Atlantic Tele-TV Holdings assigned the patent to Bell Atlantic Entertainment and Information Services Group, Inc., which

was recorded with the U.S. Patent and Trademark Office on June 20, 2006 (Reel/Frame 01241/01414). Bell Atlantic Entertainment and Information Services Group, Inc assigned its rights in the '214 patent to VCI, effective February 22, 2010 (Reel/Frame: 023963/0416). Certified copies of the assignment documents for the '214 patent are attached to this Complaint as Exhibit 15.

40. Foreign Counterparts. There are no foreign patents and foreign patent applications corresponding to the '214 patent.

41. Description of Exemplary Claim. Claim 5 of the '214 patent is directed toward an apparatus, such as an STB, for providing channel selection. The claimed STB has a receiver that can receive a plurality of “anchor” channels, each of which is associated with one or more multiplexed channels. The STB is configured to superimpose on the screen an indication whether a selected anchor channel has at least one associated multiplexed channel. The STB is further configured to receive a signal that allows users to navigate available programs sequentially by anchor channel, and another signal that allows users to navigate available programs sequentially by the multiplexed channels associated with an anchor channel.

42. Licenses. Verizon has licensed or otherwise agreed not to assert the '214 patent as part of its patent agreements with third parties, and such third parties include entities that offer products and services similar to those offered by the Respondent.

**V. UNLAWFUL AND UNFAIR ACTS OF PROPOSED RESPONDENT – PATENT INFRINGEMENT**

43. Cablevision infringes the '979, '293, '078, '748 and '214 patents with certain digital STBs that are manufactured and/or assembled outside of the United States and, by or on behalf of Cablevision, imported, sold for importation, and/or sold or leased after importation. To the extent the infringing acts involve Cablevision software that is provided by Cablevision and



downloaded to or otherwise made available on an STB after importation, and/or involves the use of Cablevision services or network infrastructure or systems that enable the ongoing operation of the Cablevision service, Cablevision induces infringement and/or contributes to infringement of (and thereby infringes) the '293, '979, '748, '078, and '214 patents. Upon information and belief, Cablevision imports, purchases for importation, and/or sells or leases after importation at least the following principal models of STBs: the Scientific Atlanta Explorer 4200HD, Scientific Atlanta Explorer 4250HD, and Scientific Atlanta Explorer 8300HD – each of which is especially made and adapted for use with the Cablevision software, network, systems, and services that results in infringement. The Cablevision STBs cannot be operated without such software and/or without use of the Cablevision network infrastructure or systems, and therefore have no substantial non-infringing uses.

44. Verizon is serving this Complaint on the proposed Respondent upon the filing of this Complaint with the Commission. This service expressly provides Cablevision of knowledge of its infringement so that continuing acts by Cablevision demonstrate intent to induce others to infringe and contribute to the infringement by others of the patents in this Investigation. Additionally, Verizon provided Cablevision notice of its infringement of the '979 patent prior to the filing of this Complaint, such that Cablevision has demonstrated an intent to induce others to infringe and contribute to the infringement by others of the '979 patent.

45. Verizon has procured in the United States a sample of each of the three representative Cablevision digital STBs: the Scientific Atlanta Explorer 4200HD, Scientific Atlanta Explorer 4250HD, and Scientific Atlanta Explorer 8300HD. *See* Palmieri Declaration (attached hereto as Exhibit 16). Physical samples of each of these devices are provided herein as Physical Exhibits 1-3. Photographs of each of these three Cablevision STBs also are attached to

the Palmieri Declaration as Attachments. To ascertain whether these STBs infringe the '293, '979, '748, '078, and '214 patents, Verizon analyzed the functionality of Cablevision's digital STBs as well as publicly available materials from Cablevision's website and other third-party sources.

**A. Infringement of the '293 patent**

46. Verizon's analysis of the functionality of the Scientific Atlanta Explorer 4200HD, Scientific Atlanta Explorer 4250HD, and Scientific Atlanta Explorer 8300HD demonstrates that Cablevision infringes, induces infringement of, and/or contributes to infringement of claim 38 of the '293 patent. An exemplar claim chart applying claim 38 the '293 patent to a representative infringing STB is attached to this Complaint as Exhibit 17, along with the documents referenced in that chart.

**B. Infringement of the '979 Patent**

47. Verizon's analysis of the functionality of the Scientific Atlanta Explorer 4200HD, Scientific Atlanta Explorer 4250HD, and Scientific Atlanta Explorer 8300HD demonstrates that Cablevision infringes, induces infringement of, and/or contributes to infringement of claim 14 of the '979 patent. An exemplar claim chart applying claim 14 of the '979 patent to a representative infringing STB is attached to this Complaint as Exhibit 18, along with the documents referenced in that chart. On information and belief, Cablevision has had knowledge of the '979 patent since at least May 13, 2009.

**C. Infringement of the '748 Patent**

48. Verizon's analysis of the functionality of the Scientific Atlanta Explorer 4200HD, Scientific Atlanta Explorer 4250HD, and Scientific Atlanta Explorer 8300HD demonstrates that Cablevision infringes, induces infringement of, and/or contributes to infringement of claim 13 of the '748 patent. An exemplar claim chart applying claim 13 of the '748 patent to a

representative infringing article is attached to this Complaint as Exhibit 19, along with documents referenced in that chart.

**D. Infringement of the '078 Patent**

49. Verizon's analysis of the functionality of the Scientific Atlanta Explorer 4200HD, Scientific Atlanta Explorer 4250HD, and Scientific Atlanta Explorer 8300HD demonstrates that Cablevision infringes, induces infringement of, and/or contributes to infringement of claim 14 of the '078 patent. An exemplar claim chart applying claim 14 of the '078 patent to a representative infringing STB is attached to this Complaint as Exhibit 20, along with documents referenced in that chart.

**E. Infringement of the '214 Patent**

50. Verizon's analysis of the functionality of the Scientific Atlanta Explorer 4200HD, Scientific Atlanta Explorer 4250HD, and Scientific Atlanta Explorer 8300HD demonstrates that Cablevision infringes, induces infringement of, and/or contributes to infringement of claim 5 of the '214 patent. An exemplar claim chart applying claim 5 of the '214 patent to a representative infringing STB is attached to this Complaint as Exhibit 21, along with documents referenced in that chart.

**VI. IMPORTATION**

51. Upon information and belief, Cablevision is selling and/or leasing or otherwise providing within the United States, after importation, digital STBs that infringe claim 14 of the '979 patent, claim 38 of the '293 patent, claim 14 of the '078 patent, claim 13 of the '748 patent, and claim 5 of the '214 patent, in violation of, *inter alia*, 19 U.S.C. § 1337(a)(1)(B)(i).

52. Verizon has obtained in the United States each of three models of Cablevision digital STBs – the Scientific Atlanta Explorer 4200HD, Scientific Atlanta Explorer 4250HD, and Scientific Atlanta Explorer 8300HD – which have been imported into the United States from

abroad. Two of these STBs were obtained at a Cablevision consumer center located at 275 Centennial Avenue, Piscataway, New Jersey on February 19, 2010 (the receipt for which is contained in Attachment E to the Palmieri Declaration) while the third was already in Mr. Palmieri's possession. As shown in the photographs included in Palmieri Declaration Attachments A, C, and D, the physical casing of each of the three models of Cablevision digital STBs is marked "Made in Mexico".

## **VII. HARMONIZED TARIFF NUMBERS**

53. On information and belief, the unlawfully imported STBs are classified under the Harmonized Tariff Schedule of the United States as item number 8521.90.00, Video recording or reproducing apparatus, whether or not incorporating a video tuner: Other.

## **VIII. RELATED LITIGATION**

54. Other than for the issuance of the patents asserted by the United States Patent and Trademark Office, none of the patents asserted in this Complaint are or have been the subject of any court or agency adjudication.

## **IX. DOMESTIC INDUSTRY**

55. As defined by Section 337(a)(3), a domestic industry exists in connection with the Verizon products that practice the claims of the '293, '979, '748, '078 and '214 patents. Verizon has made significant investments in plant and equipment, employed significant labor and capital, and made substantial investments in engineering, research and development related to products and services that embody the '293, '979, '748, '078, and '214 patents. Verizon also has made significant investments in licensing the '293, '979, '748, '078, and '214 patents.

56. Each of these five patents is important to Verizon's success in the highly competitive fields of digital video and entertainment services and communications services more generally. These five patents enable Verizon to offer more advanced and differentiated products

and services than its competitors, including by offering FiOS TV services to subscribers over the FiOS network. At least the following models of STBs that are used with Verizon's FiOS TV services practice the inventions of the '293, '979, '748, '078, and '214 patents: Motorola 7216, Motorola 6416, Motorola 7100, Motorola 6200, Motorola 2708, and Motorola 2500.

57. Submitted with this Complaint, as Exhibits 22-26, are claim charts that apply an exemplary claim from each of the '293, '979, '748, '078, and '214 patents to the Motorola 7216 STB.

58. The Declaration of Eric Bruno, attached hereto as Confidential Exhibit 28, discusses Verizon's domestic investment activities relating to the '293, '979, '748, '078, and '214 patents. Verizon performs the research, design, planning, engineering, development, operations, and marketing activities relating to products and services that practice these patents at its facilities, which are located primarily in the United States, that practice these patents.<sup>3</sup> All of Verizon's current and planned STBs practice one or more claims of each of the '293, '979, '748, '078, and '214 patents.

59. The square footage of Verizon's facilities devoted to activities related to products and systems that incorporate the '293, '979, '748, '078, and '214 patents, and the number of domestic employees involved in those activities, are set forth in the Bruno Declaration. This square footage and these employees are involved in planning, engineering, development, and operations relating to products that incorporate the '293, '979, '748, '078, and '214 patents. The Bruno Declaration also sets forth Verizon's approximate revenues attributable to the Verizon FiOS TV services and products that incorporate the patented technology.

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<sup>3</sup> Verizon also has a team of software engineers located in India that works in conjunction with a team of software engineers located within the United States to develop software for Verizon's STBs.

60. Attached hereto as Confidential Exhibit 29 is the Declaration of Richard J. Misiag, which discusses Verizon's significant domestic activities in licensing Verizon's patent portfolio, including the '293, '979, '748, '078, and '214 patents.

61. Verizon has made and continues to make substantial ongoing domestic investments in products and services that exploit one or more claims of the '293, '979, '748, '078, and '214 patents.

**X. RELIEF**

62. WHEREFORE, by reason of the foregoing, to put an end to the significant and ongoing harm that Verizon is suffering as a result of Cablevision's use of the Verizon Patents, Verizon requests that the United States International Trade Commission institute this case, that this Investigation be briefed and submitted as close to a 12-month target date schedule as possible, and that the Commission grant the following relief,:

- a. Institute an immediate Investigation pursuant to Section 337(b)(1) with respect to violations of Section 337(a)(1)(B) based upon the unlawful importation into the United States, the sale for importation, and/or the sale within the United States after importation of Respondent's digital STBs, which infringe one or more claims of the '293, '979, '748, '078, and/or '214 patents;
- b. Render a determination that the importation, sale for importation, and/or sale after importation of Respondent's infringing digital STBs constitute one or more violations of Section 337;
- c. Issue a permanent exclusion order pursuant to Section 337(d) excluding from entry into the United States all of Respondent's digital STBs that infringe one or more claims of the '293, '979, '748, '078, and/or '214 patents;
- d. Issue a permanent exclusion order pursuant to Section 337(d) excluding from entry into the United States any and all software intended for use on or with Respondent's digital STBs that infringe one or more claims of the '293, '979, '748, '078, and/or '214 patents;
- e. Issue a permanent cease-and-desist order pursuant to Section 337(f) prohibiting the importation into the United States, the sale for importation, or the sale within

the United States after importation of any of Respondent's digital STBs that infringe one or more claims of the '293, '979, '748, '078, and/or '214 patents;

- f. Issue a permanent cease-and-desist order pursuant to Section 337(f) prohibiting the modification, upgrading, or other alternation of any software used on or with any or all of Respondent's digital STBs to infringe one or more claims of the '293, '979, '748, '078, and/or '214 patents;
- g. Issue a permanent cease-and-desist order pursuant to Section 337(f) prohibiting Cablevision from operating its network in combination with the digital STBs and/or any associated software that infringe one or more claims of the '293, '979, '748, '078, and/or '214 patents; and
- h. Issue a permanent cease-and-desist order pursuant to Section 337(f) prohibiting Cablevision from actively inducing or contributing to the infringement by others of the '293, '979, '748, '078 and/or '214 patents in connection with the use of a digital STB and/or any associated software.



Dated: March 16, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John Thorne', is written over a horizontal line.

John Thorne  
VERIZON  
1320 North Courthouse Road  
9th Floor  
Arlington, Virginia 22201  
Tel: (703) 351-3900  
Fax: (703) 351-3670

Leonard C. Suchyta  
John P. Frantz  
Caren K. Khoo  
VERIZON  
One Verizon Way  
Basking Ridge, NJ 07920  
Tel: (908) 559-5623  
Fax: (908) 766-6974

Mark C. Hansen  
Michael K. Kellogg  
KELLOGG, HUBER, HANSEN,  
TODD, EVANS & FIGEL, PLLC  
1615 M Street, N.W.  
Washington, DC 20015  
Tel: (202) 326-7930  
Fax: (202) 326-7999

Eric S. Namrow  
JONES DAY  
51 Louisiana Avenue, N.W.  
Washington, DC 20001  
Tel: (202) 879-5435  
Fax: (202) 626-1700