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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

EDWIN LYDA,
Plaintiff,
vs.
CBS CORPORATION, and
CBS INTERACTIVE, INC.
Defendants.

Civil Action No. 1:14-CV-06572 DAB

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

NOW COMES Plaintiff, Edwin Lyda, (“Lyda”) through his attorneys, and files this Complaint for Patent Infringement and Demand for Jury Trial against Defendant CBS Corporation, (“CBS”), and Defendant CBS Interactive, Inc. (“CBS Interactive”).

PARTIES

1. Plaintiff Lyda is an individual residing in the State of Texas.
2. On information and belief, Defendant CBS has its headquarters at 51 West 52nd Street, New York, NY 10019-6188.
3. On information and belief, Defendant CBS Interactive is a wholly division of Defendant CBS, and Defendant CBS Interactive has its headquarters at 235 Second Street, San Francisco, CA 94105.

JURISDICTION AND VENUE

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2 4. This is an action for patent infringement of two patents, United States Patent Nos.
3 7,434,243 (hereinafter “The ‘243 Patent”) and 7,730,506, pursuant to the laws of
4 the United States of America as set forth in Title 35 Sections 271 and 281 of the
5 United States Code. This court has subject matter jurisdiction over this action
6 pursuant to 28 U.S.C. Sec. 1338(a) and 28 U.S.C. Sec. 1331. Venue is proper in
7 this judicial district under 28 U.S.C. §§ 1391(b), (c) and 1400(b).

8 5. On information and belief, the Defendants are subject to this Court’s specific and
9 general personal jurisdiction, as well as the New York Long Arm Statute,
10 pursuant to due process.

BACKGROUND

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12 6. On information and belief, Defendants CBS and CBS Interactive work in concert
13 to present the television program BIG BROTHER. CBS Interactive is a wholly
14 owned division of CBS and takes credit on its internet web page for the
15 organization and contents of the show BIG BROTHER. BIG BROTHER features
16 a group of strangers living together and allows the television audience to observe
17 the group of strangers at all times so the audience can see how the strangers
18 interact with each other and sometimes how they scheme against each other. From
19 time to time, someone from the group is voted off, and eventually, a person is a
20 winner for surviving the voting process. The winners win cash prizes.
21 Sometimes, the television audience is invited to vote on certain matters such as
22 awarding a prize or an advantage to one of the people in the group. The voting by
23 the audience is accomplished several ways: By telephone, online at a web site,
24 using a cell phone app, or by text messaging. The text messaging is usually
25 limited to a specified period of time and uses a code to identify the destination.
26 The code is provided by BIG BROTHER. The text message includes a vote
27 selection by the sender. The cell phone used need not be owned by the sender.
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1 One or more of the Defendants provide electronic equipment to receive text
2 messages from voters. On information and belief, the front end receiving the text
3 message operates like a typical cell phone or telephone receiver and additional
4 electronic equipment processes the received text message to classify the vote
5 contents of the text message. Thereafter, the votes in the text messages are
6 processed to compile them and possibly to combine them with votes made using
7 other receiving systems to produce a running accumulated vote distribution. The
8 results of all of the voting is made public and BIG BROTHER awards the person
9 in the group with the most votes.

10 **CAUSES OF ACTION FOR PATENT INFRINGEMENT**

- 11 7. On October 7, 2008, the ‘243 Patent entitled “RESPONSE APPARATUS
12 METHOD AND SYSTEM”, was duly and legally issued to Edwin Lyda, as the
13 sole patentee.
- 14 8. On June 1, 2010, the ‘506 Patent entitled “METHOD AND APPARATUS FOR
15 RESPONSE SYSTEM”, was duly and legally issued to Edwin Lyda, as the sole
16 patentee.
- 17 9. Plaintiff Lyda is the sole owner of both the ‘243 Patent, and the ‘506 Patent, and
18 has standing to bring this action.

19 **COUNT ONE**

- 20 10. Plaintiff Lyda repeats and incorporates herein the allegations contained in
21 paragraphs 1 through 9 above.
- 22 11. On information and belief, Defendant CBS, as owner of the CBS Interactive,
23 substantially controls the production of the television show “BIG BROTHER”
24 and similar audience interactive television programs allowing choices such as
25 voting through cell phone texting.
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- 1 12. The television show “BIG BROTHER” features an opportunity for viewers of the
2 show to vote on certain aspects of the show using commonly available cell phones
3 to send text messages.
- 4 13. On information and belief, voting by cell phones with a text message is an
5 important feature of the “BIG BROTHER” show.
- 6 14. On information and belief, a highly popular and successful television show such
7 as “BIG BROTHER” utilizes tests of its electrical systems such as audience
8 voting using cell phones to send a text messages along with the computer
9 processing systems under the control of Defendant CBS for compiling votes as
10 well other electrical system functions anticipated for conducting a major show on
11 television before a live audience.
- 12 15. On information and belief, the testing of text voting operations by Defendant
13 CBS using cell phones sending text messages requires the participation of people
14 under the control or direction of the Defendant CBS to send votes using text
15 messages, typically using well known cell phones either their own respective cell
16 phones, or cell phones supplied by Defendant CBS in order to test the electronic
17 text voting used by BIG BROTHER.
- 18 16. As a result of its activities in connection with the television show “BIG
19 BROTHER”, Defendant CBS is infringing at least method claim 8 of the ‘243
20 Patent.

21 **COUNT TWO**

- 22 17. Plaintiff Lyda repeats and incorporates herein the allegations contained in
23 paragraphs 1 through 9 above.
- 24 18. On information and belief, Defendant CBS, as owner of the CBS Interactive,
25 substantially controls the production of the television show “BIG BROTHER”
26 and similar audience interactive television programs allowing choices such as
27 voting through cell phone texting.
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- 1 19. The television show “BIG BROTHER” features an opportunity for viewers of the
2 show to vote on certain aspects of the show using commonly available cell phones
3 to send text messages.
- 4 20. On information and belief, voting by cell phones with a text message is an
5 important feature of the “BIG BROTHER” show.
- 6 21. On information and belief, a highly popular and successful television show such
7 as “BIG BROTHER” utilizes tests of its electrical systems such as audience
8 voting using cell phones to send a text messages along with the computer
9 processing systems under the control of Defendant CBS for compiling votes as
10 well other electrical system functions anticipated for conducting a major show on
11 television before a live audience.
- 12 22. On information and belief, the testing of text voting operations by Defendant
13 CBS using cell phones sending text messages requires the participation of people
14 under the control or direction of the Defendant CBS to send votes using text
15 messages, typically using well known cell phones either their own respective cell
16 phones, or cell phones supplied by Defendant CBS in order to test the electronic
17 text voting used by BIG BROTHER.
- 18 23. As a result of its activities in connection with the television show “BIG
19 BROTHER”, Defendant CBS is infringing at least system claim 9 of the ‘243
20 Patent.

21 **COUNT THREE**

- 22 24. Plaintiff Lyda repeats and incorporates herein the allegations contained in
23 paragraphs 1 through 9 above.
- 24 25. On information and belief, Defendant CBS, as owner of the CBS Interactive,
25 substantially controls the production of the television show “BIG BROTHER”
26 and similar audience interactive television programs allowing choices such as
27 voting through cell phone texting.
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1 26. The television show “BIG BROTHER” features an opportunity for viewers of the
2 show to vote on certain aspects of the show using commonly available cell phones
3 to send text messages.

4 27. On information and belief, voting by cell phones with a text message is an
5 important feature of the “BIG BROTHER” show.

6 28. On information and belief, a highly popular and successful television show such
7 as “BIG BROTHER” utilizes tests of its electrical systems such as audience
8 voting using cell phones to send a text messages along with the computer
9 processing systems under the control of Defendant CBS for compiling votes as
10 well other electrical system functions anticipated for conducting a major show on
11 television before a live audience.

12 29. On information and belief, the testing of text voting operations by Defendant
13 CBS using cell phones sending text messages requires the participation of people
14 under the control or direction of the Defendant CBS to send votes using text
15 messages, typically using well known cell phones either their own respective cell
16 phones, or cell phones supplied by Defendant CBS in order to test the electronic
17 text voting used by BIG BROTHER.

18 30. As a result of its activities in connection with the television show “BIG
19 BROTHER”, Defendant CBS is infringing at least method claim 1 of the ‘506
20 Patent.

21 **COUNT FOUR**

22 31. Plaintiff Lyda repeats and incorporates herein the allegations contained in
23 paragraphs 1 through 9 above.

24 32. On information and belief, Defendant CBS, as owner of the CBS Interactive,
25 substantially controls the production of the television show “BIG BROTHER”
26 and similar audience interactive television programs allowing choices such as
27 voting through cell phone texting.
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1 33. The television show “BIG BROTHER” features an opportunity for viewers of the
2 show to vote on certain aspects of the show using commonly available cell phones
3 to send text messages.

4 34. On information and belief, voting by cell phones with a text message is an
5 important feature of the “BIG BROTHER” show.

6 35. On information and belief, a highly popular and successful television show such
7 as “BIG BROTHER” utilizes tests of its electrical systems such as audience
8 voting using cell phones to send a text messages along with the computer
9 processing systems under the control of Defendant CBS for compiling votes as
10 well other electrical system functions anticipated for conducting a major show on
11 television before a live audience.

12 36. On information and belief, the testing of text voting operations by Defendant
13 CBS using cell phones sending text messages requires the participation of people
14 under the control or direction of the Defendant CBS to send votes using text
15 messages, typically using well known cell phones either their own respective cell
16 phones, or cell phones supplied by Defendant CBS in order to test the electronic
17 text voting used by BIG BROTHER.

18 37. As a result of its activities in connection with the television show “BIG
19 BROTHER”, Defendant CBS is infringing at least method claim 7 of the ‘506
20 Patent.

21 **COUNT FIVE**

22 38. Plaintiff Lyda repeats and incorporates herein the allegations contained in
23 paragraphs 1 through 37 above.

24 39. On or about July 7, 2011, Defendant CBS was provided notice of the patents-in-
25 suit and informed that it was infringing the ‘243 and ‘506 patents. Defendant
26 CBS is a willful infringing because it continued its infringing activities after being
27 informed that those activities were infringing the patents-in-suit.
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COUNT SIX

- 1
- 2 40. Plaintiff Lyda repeats and incorporates herein the allegations contained in
- 3 paragraphs 1 through 9 above.
- 4 41. On information and belief, Defendant CBS Interactive is the implementer and has
- 5 controls over the production of the television show “BIG BROTHER” and similar
- 6 audience interactive television programs allowing choices such as voting through
- 7 cell phone texting.
- 8 42. The television show “BIG BROTHER” features an opportunity for viewers of the
- 9 show to vote on certain aspects of the show using commonly available cell phones
- 10 to send text messages.
- 11 43. On information and belief, voting by cell phones with a text message is an
- 12 important feature of the “BIG BROTHER” show.
- 13 44. On information and belief, a highly popular and successful television show such
- 14 as “BIG BROTHER” utilizes tests of its electrical systems such as audience
- 15 voting using cell phones to send a text messages along with the computer
- 16 processing systems under the direct control of Defendant CBS Interactive for
- 17 compiling votes as well other electrical system functions anticipated for
- 18 conducting a major show on television before a live audience.
- 19 45. On information and belief, the testing of text voting operations by Defendant
- 20 CBS Interactive using cell phones sending text messages requires the participation
- 21 of people under the control or direction of the Defendant CBS Interactive to send
- 22 votes using text messages, typically using well known cell phones either their own
- 23 respective cell phones, or cell phones supplied by Defendant CBS Interactive in
- 24 order to test the electronic text voting used by BIG BROTHER.
- 25 46. As a result of its activities in connection with the television show “BIG
- 26 BROTHER”, Defendant CBS Interactive is infringing at least method claim 8 of
- 27 the ‘243 Patent.
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COUNT SEVEN

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- 2 47. Plaintiff Lyda repeats and incorporates herein the allegations contained in
- 3 paragraphs 1 through 9 above.
- 4 48. On information and belief, Defendant CBS Interactive is the implementer and has
- 5 controls over the production of the television show “BIG BROTHER” and similar
- 6 audience interactive television programs allowing choices such as voting through
- 7 cell phone texting.
- 8 49. The television show “BIG BROTHER” features an opportunity for viewers of the
- 9 show to vote on certain aspects of the show using commonly available cell phones
- 10 to send text messages.
- 11 50. On information and belief, voting by cell phones with a text message is an
- 12 important feature of the “BIG BROTHER” show.
- 13 51. On information and belief, a highly popular and successful television show such
- 14 as “BIG BROTHER” utilizes tests of its electrical systems such as audience
- 15 voting using cell phones to send a text messages along with the computer
- 16 processing systems under the direct control of Defendant CBS Interactive for
- 17 compiling votes as well other electrical system functions anticipated for
- 18 conducting a major show on television before a live audience.
- 19 52. On information and belief, the testing of text voting operations by Defendant
- 20 CBS Interactive using cell phones sending text messages requires the participation
- 21 of people under the control or direction of the Defendant CBS Interactive to send
- 22 votes using text messages, typically using well known cell phones either their own
- 23 respective cell phones, or cell phones supplied by Defendant CBS Interactive in
- 24 order to test the electronic text voting used by BIG BROTHER.
- 25 53. As a result of its activities in connection with the television show “BIG
- 26 BROTHER”, Defendant CBS Interactive is infringing at least system claim 9 of
- 27 the ‘243 Patent.
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COUNT EIGHT

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- 2 54. Plaintiff Lyda repeats and incorporates herein the allegations contained in
- 3 paragraphs 1 through 9 above.
- 4 55. On information and belief, Defendant CBS Interactive is the implementer and has
- 5 controls over the production of the television show “BIG BROTHER” and similar
- 6 audience interactive television programs allowing choices such as voting through
- 7 cell phone texting.
- 8 56. The television show “BIG BROTHER” features an opportunity for viewers of the
- 9 show to vote on certain aspects of the show using commonly available cell phones
- 10 to send text messages.
- 11 57. On information and belief, voting by cell phones with a text message is an
- 12 important feature of the “BIG BROTHER” show.
- 13 58. On information and belief, a highly popular and successful television show such
- 14 as “BIG BROTHER” utilizes tests of its electrical systems such as audience
- 15 voting using cell phones to send a text messages along with the computer
- 16 processing systems under the direct control of Defendant CBS Interactive for
- 17 compiling votes as well other electrical system functions anticipated for
- 18 conducting a major show on television before a live audience.
- 19 59. On information and belief, the testing of text voting operations by Defendant
- 20 CBS Interactive using cell phones sending text messages requires the participation
- 21 of people under the control or direction of the Defendant CBS Interactive to send
- 22 votes using text messages, typically using well known cell phones either their own
- 23 respective cell phones, or cell phones supplied by Defendant CBS Interactive in
- 24 order to test the electronic text voting used by BIG BROTHER.
- 25 60. As a result of its activities in connection with the television show “BIG
- 26 BROTHER”, Defendant CBS Interactive is infringing at least method claim 1 of
- 27 the ‘506 Patent.
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COUNT NINE

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- 61. Plaintiff Lyda repeats and incorporates herein the allegations contained in paragraphs 1 through 9 above.
- 62. On information and belief, Defendant CBS Interactive is the implementer and has controls over the production of the television show “BIG BROTHER” and similar audience interactive television programs allowing choices such as voting through cell phone texting.
- 63. The television show “BIG BROTHER” features an opportunity for viewers of the show to vote on certain aspects of the show using commonly available cell phones to send text messages.
- 64. On information and belief, voting by cell phones with a text message is an important feature of the “BIG BROTHER” show.
- 65. On information and belief, a highly popular and successful television show such as “BIG BROTHER” utilizes tests of its electrical systems such as audience voting using cell phones to send a text messages along with the computer processing systems under the direct control of Defendant CBS Interactive for compiling votes as well other electrical system functions anticipated for conducting a major show on television before a live audience.
- 66. On information and belief, the testing of text voting operations by Defendant CBS Interactive using cell phones sending text messages requires the participation of people under the control or direction of the Defendant CBS Interactive to send votes using text messages, typically using well known cell phones either their own respective cell phones, or cell phones supplied by Defendant CBS Interactive in order to test the electronic text voting used by BIG BROTHER.
- 67. As a result of its activities in connection with the television show “BIG BROTHER”, Defendant CBS Interactive is infringing at least system claim 7 of the ‘506 Patent.

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COUNT TEN

68. Plaintiff Lyda repeats and incorporates herein the allegations contained in paragraphs 1 through 37 above.

69. On or about July 7, 2011, Defendant CBS Interactive was provided with the notice sent to Defendant CBS pointing out the patents-in-suit and informed that its activities were infringing the ‘243 and ‘506 patents. Defendant CBS Interactive is a willful infringing because it continued its infringing activities after being informed that those activities were infringing the patents-in-suit.

JURY DEMAND

70. Pursuant to Fed. R. Civ. P. 38, Plaintiff Lyda hereby demands a jury trial as to all issues in this lawsuit.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lyda respectfully requests this Court to:

- a. enter judgment for Plaintiff Lyda on this Complaint against Defendant CBS;
- b. order that an accounting be had for the damages caused to the Plaintiff Lyda by the infringing activities of the Defendant CBS;
- c. award Plaintiff Lyda interest and costs against Defendant CBS;
- d. enter judgment for Plaintiff Lyda on this Complaint against Defendant CBS Interactive;
- e. order that an accounting be had for the damages caused to the Plaintiff Lyda by the infringing activities of the Defendant CBS Interactive;
- f. award Plaintiff Lyda interest and costs against Defendant CBS Interactive;
- g. find that Defendant CBS is a willful infringer;
- h. find that Defendant CBS Interactive is a willful infringer; and
- i. award Plaintiff Lyda such other and further relief as this Court may deem just and equitable.

THE PLAINTIFF
EDWIN LYDA

 Attorney for the Plaintiff
 David Fink
 Fink & Johnson
 7519 Apache Plume
 Houston, Texas 77071
 713.729.4991 Tel
 713.729.8408 Fax
 email: texascowboy6@gmail.com