

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

REDBOX AUTOMATED RETAIL, LLC,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. _____
)	
DVDPLAY, INC.,)	JUDGE _____
)	
Defendant.)	JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Redbox Automated Retail, LLC (“Redbox”) by and through its attorneys, alleges as follows:

PARTIES

1. Plaintiff Redbox is a limited liability company organized under the laws of the State of Delaware with its principal place of business in Oakbrook Terrace, Illinois.
2. Upon information and belief, Defendant DVDPlay, Inc. (“DVDPlay”) is a corporation organized under the laws of the State of Delaware with its principal place of business in Campbell, California.

JURISDICTION AND VENUE

3. This action for patent infringement arises under 35 U.S.C. § 100 *et seq.* generally and 35 U.S.C. § 271(a) and/or (c) specifically.
4. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338.

5. This Court has personal jurisdiction over Defendant by virtue of, *inter alia*, its ongoing business through its kiosk vending machines at numerous locations within this district and the State of Illinois.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and/or (c) and/or § 1400(b) because Defendant is subject to personal jurisdiction in this judicial district.

INFRINGEMENT OF U.S. PATENT NO. 5,159,560

7. On October 27, 1992, the United States Patent and Trademark Office (“USPTO”) granted U.S. Patent No. 5,159,560 (“the ‘560 Patent”). A true and correct copy of the ‘560 Patent is attached hereto as Exhibit A.

8. Redbox is the current assignee of the ‘560 Patent and Redbox owns all rights, title and interest in the ‘560 Patent.

9. In violation of 35 U.S.C. § 271(a), Defendant is directly and indirectly infringing the ‘560 Patent by making, using, offering for sale, selling and/or marketing the DVDPlay rental system including the <dvdplay.com> website and its associated kiosks (the “Accused System”) and/or contributing to the infringement by users of the Accused System such as franchisees of the Accused System by supplying the Accused System.

10. As a direct and proximate result of Defendant’s infringement of the ‘560 Patent, Redbox has been and will continue to suffer damages for which Redbox is entitled to relief.

11. As a direct and proximate result of Defendant’s infringement of the ‘560 Patent, Redbox has suffered and will continue to suffer irreparable injury unless Defendant’s infringement of the ‘560 Patent is enjoined.

12. Prior to the inception of the infringing conduct alleged herein, Defendant had knowledge of an objectively high likelihood that its actions would infringe the ‘560 Patent. As a result, Defendant’s infringement of the ‘560 Patent is willful.

13. This is an exceptional case within the meaning of 35 U.S.C. § 285, which warrants reimbursement of Redbox's reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Redbox requests that:

A. Judgment be entered that DVDPlay has infringed one or more claims of the '560 Patent directly, either literally or under the doctrine of equivalents, and/or indirectly;

B. A preliminary and permanent injunction be granted pursuant to 35 U.S.C. § 283 enjoining DVDPlay and its officers, agents, servants, employees, attorneys and all persons in active concert with it, from any further acts of infringement or contributory infringement of the '560 Patent;

C. Judgment be entered pursuant to 35 U.S.C. § 284 awarding Redbox damages adequate to compensate Redbox DVDPlay's infringement of the '560 Patent in an amount no less than a reasonable royalty;

D. Judgment be entered pursuant to 35 U.S.C. § 284 trebling all damages awarded to Redbox based on DVDPlay's willful infringement of the '560 Patent;

E. Redbox be awarded its pre-judgment and post-judgment interest and costs pursuant to 35 U.S.C. § 284;

F. Judgment be entered that this case is an exceptional case under 35 U.S.C. § 285;

G. Redbox be awarded its reasonable attorneys' fees; and

H. Redbox be granted such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff Redbox hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: October 28, 2008

Of Counsel:

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Respectfully submitted,

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