



the patent laws of the United States, 35 U.S.C. § 100 *et. seq.*, as well as 28 U.S.C. §§ 1331 and 1338.

5. Venue is proper in the Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

6. An actual controversy exists between InterAD and AT&T over the alleged infringement and validity of United States Patent No. 5,438,355 (“the ‘355 Patent”).

### FACTS

7. On information and belief, InterAD purports to be the owner by assignment of the ‘355 Patent, entitled “Interactive System for Processing Viewer Responses to Television Programming.” The ‘355 Patent issued on August 1, 1995. A true and correct copy of the ‘355 Patent is attached hereto as Exhibit A.

8. On September 16, 2011, InterAD filed a complaint in the United States District Court for the District of Delaware alleging that AT&T Inc. infringes the ‘355 Patent.

9. AT&T Inc. is a corporate parent company of both Plaintiffs.

10. InterAD identified AT&T’s U-Verse consoles and remote controls, U-Verse On Demand, U-Verse Pay-Per-View, Interactive Television Advertising and Enhanced Overlay Advertising products as infringing the ‘355 Patent in its First Amended Complaint filed December 5, 2011.

11. On January 5, 2012, InterAD voluntarily dismissed its complaint against AT&T Inc. without prejudice, but InterAD expressed no reason for the dismissal and did not state that it no longer asserts infringement.

12. Despite the dismissal of InterAD's complaint, upon information and belief, Plaintiffs have a reasonable apprehension of further litigation, in that InterAD may sue us

individually consistent with the Leahy-Smith America Invents Act rather than jointly with numerous other unrelated defendants.

13. The dispute between Plaintiffs and InterAD is an actual controversy because InterAD has previously asserted its alleged rights under the '355 Patent and Plaintiffs assert that they have the right to make, use, sell, and offer to sell U-Verse consoles and associated products.

**COUNT 1**  
**(Declaratory Judgment Of Non-Infringement)**

14. Plaintiffs incorporate and reallege Paragraphs 1 through 13 as though fully set forth herein.

15. Plaintiffs have not infringed and do not infringe any valid claim of the '355 Patent, literally or under the doctrine of equivalents, directly or indirectly, willfully or otherwise.

**COUNT 2**  
**(Declaratory Judgment Of Invalidity)**

16. Plaintiffs incorporate and reallege Paragraphs 1 through 15 as though fully set forth herein.

17. Each claim of the '355 Patent is invalid for failure to comply with one or more provision of the patent laws of the United States of America, Title 35, United States Code, including, but not limited to, 35 U.S.C. § 101, 102, 103, 112 and/or 116.

**PLAINTIFFS' PRAYER FOR RELIEF**

FOR THESE REASONS, Southwestern Bell Telephone Co. and AT&T Services, Inc. respectfully request that this Court enter judgment in their favor and grant the following relief:

A. that judgment be entered in Plaintiffs' favor that they have not and do not infringe any claim of the '355 Patent;

B. that judgment be entered in Plaintiffs' favor that each and every claim of the '355 Patent is invalid;

C. that judgment be entered in Plaintiffs' favor that this case is exceptional and awarding Plaintiffs' their attorney fees and costs under 35 U.S.C. § 285; and

D. that Plaintiffs be awarded any other relief as the Court or a jury deems just and proper.

**DEMAND FOR JURY TRIAL**

In accordance with Rule 38(b) of the Federal Rule of Civil Procedure, Plaintiffs Southwestern Bell Telephone Co. and AT&T Services, Inc., hereby demand a trial by jury on all issues so triable.

Dated: January 5, 2012

Respectfully submitted,

By: /s/ Kevin E. Cadwell

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