

**CONFIDENTIAL INFORMATION  
SUBJECT TO PROTECTIVE ORDER**

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION**

WHEREVERTV, INC.,

Plaintiff,

CASE NO. 2:18-cv-529-UA-CM

vs.

COMCAST CABLE COMMUNICATIONS,  
LLC,

Defendant.

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**COMCAST CABLE COMMUNICATIONS, LLC'S INVALIDITY,  
UNENFORCEABILITY, AND NON-INFRINGEMENT CONTENTIONS**

Pursuant to the Case Management and Scheduling Order in Patent Case dated January 17, 2019 (Doc. No. 58), Defendant Comcast Cable Communications, LLC ("Comcast") hereby submits the following invalidity, unenforceability, and non-infringement contentions with respect to the asserted claims 1 and 3-9 ("asserted claims") of U.S. Patent No. 8,656,431 ("431 patent").

**RESERVATION OF RIGHTS**

The Court has not issued a claim construction order, Plaintiff has yet to provide its proposed claim constructions for the asserted claims, and discovery has only recently opened. As such, Comcast's non-infringement and invalidity contentions are based, at least in part, on Comcast's present understanding of the asserted claims, the claim constructions that Plaintiff appears to be asserting based on its amended complaint and infringement contentions, and the discovery that the parties have taken to date. Comcast reserves all rights to further supplement or amend these contentions to the extent permitted by the Court and under the Case Management and Scheduling Order in Patent Case dated January 17, 2019 (Doc. No. 58). Specifically, Comcast reserves the right, to the extent that the Court allows and in accordance with the Case Management and

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allegations that, for example, Comcast's so-called "Xfinity X1 Platform" meets the claim limitations requiring that the accused server be "distinct" from the accused "MSO(s)" and "non-MSO(s)," receiving "only or virtually entirely streaming video programming" from the accused "MSO" or "non-MSO" source via the communications link and the network, and other limitations. Comcast expressly reserves the right to supplement these invalidity contentions to the extent permitted by the Court under the Case Management and Scheduling Order in Patent Case dated January 17, 2019 (Doc. No. 58). Such supplementation may include, without limitation, additional theories of invalidity, supplemental prior art and prior art combinations, and additional invalidity arguments under Section 112.

**A. Invalidity Based on Prior Art**

**The party shall disclose whether each item of prior art anticipates each asserted claim or renders it obvious. If a combination of items of prior art makes a claim obvious, then each such combination and the reason why a person of ordinary skill in the art would combine such items shall be identified. (Doc. No. 58 at 3 ¶ 3)**

Comcast contends that each of the asserted claims is invalid as anticipated under Section 102 or obvious under Section 103. Comcast's contentions regarding the prior art<sup>2</sup> are set forth below.

**1. Anticipation**

Comcast identifies in the chart below the documentary prior art that it contends, on information and belief, anticipates either expressly or inherently the asserted claims of the '431 patent under 35 U.S.C. § 102:

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<sup>2</sup> Comcast further reserves the right to assert as prior art any prior art cited on the face of the patent or during prosecution of the patent.

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Prior art reference	Claim(s) anticipated
U.S. patent no. 8,095,954 <b>Walter</b>	At least claims 1, 5, 7, and 8
U.S. patent app. 2002/0144281 or 2002/0144289	At least claims 1, 5, 7, and 8
U.S. patent no. 7,546,623 <b>Ramraz</b>	At least claims 1, 5, 7, 8, and 9
U.S. patent no. 6,195,692	At least claims 1, 5, 7, and 8
U.S. patent no. 6,182,287	At least claims 1, 3, 5, 7, and 8
U.S. patent app. 2004/0040039	At least claims 1, 5, 6, 7, and 8
U.S. patent app. 2002/0180781	At least claims 1, 5, 7, and 8
U.S. patent app. 2005/0076363	At least claims 1, 3, 5, 6, 7, and 8
U.S. patent app. 2003/0093807	At least claims 1, 5, 6, 7, and 8
U.S. patent app. 2003/0066085	At least claims 1, 5, 6, 7, and 8
PCT publication WO 0027122	At least claims 1, 5, 6, 7, and 8
U.S. patent no. 6,182,094	At least claims 1, 5, 7, and 8
EU patent app. publication 1517559	At least claims 1, 5, 7, and 8

Comcast identifies in the chart below the non-patent prior art that it contends, on information and belief, anticipates either expressly or inherently the asserted claims of the '431 patent under 35 U.S.C. § 102. Specifically, Comcast identifies the system and devices that, based on its present understanding, it believes anticipates the identified patent claims. In addition, Comcast intends on relying on publicly available documentation regarding those prior art systems and devices, including the documentation cited below, as anticipating references. Comcast also anticipates taking further discovery regarding one or more of the below-cited systems and devices, as well as other prior art systems and devices such as ReplayTV, Moxi DVR, Clearband, Myrio, Sky Active, OpenTV, GuideWorks, mPhase, DirecTV, and other potential prior art

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systems/devices, which may also be found to anticipate and/or render obvious one or more of the asserted claims.

Other prior art references	Date of publication/use/offer for sale/sale	Claim(s) anticipated
iMagicTV/Alcatel DTV Manager or related documentation (e.g., CMCST_1486961-97)	<p>The DTV Manager was on sale and in public use in the U.S. by at least Nov. 15, 2000.</p> <p>Documentation related to the DTV Manager was published on, e.g., iMagicTV's website, no later than December 4, 2002.</p>	At least claims 1, 5, 7, and 8
AOL TV system or related documentation (e.g., CMCST_1486622-63)	<p>AOL TV, which was backed by Liberate, was on sale and in public use in the U.S. by at least June 2000.</p> <p>Documentation related to AOL TV was published on, e.g., AOLTV.com, no later than August 7, 2002.</p>	At least claims 1, 5, 7, and 8
WebTV/MSN TV or related documentation (e.g., CMCST_1486353-6366, CMCST_1486376-6419, CMCST_1487399-7410)	<p>WebTV/MSN TV, owned by WebTV Networks, was on sale and in public use in the U.S. by at least September 1996.</p> <p>Documentation related to WebTV/MSN TV was published on, e.g., MSNTV.com, help.webtv.net, and webtv.net no later than January 21, 2002.</p>	At least claims 1, 5, 7, and 8
TiVo system or related documentation (e.g., CMCST_1487469-7574, CMCST_1486375)	<p>Tivo, owned by Tivo, Inc., was on sale and in public use in the U.S. by at least March 31, 1999.</p> <p>Documentation related to Tivo was published on, e.g., Tivo.com, no later than October 9, 2001.</p>	At least claims 1, 5, 7, and 8
Liberate software suite, including Liberate TV Navigator, Mediacast, and	Liberate, owned by Liberate Technologies, was on sale and in public use in the U.S. by at least November 10, 1999.	At least claims 1, 5, 7, and 8

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<b>Other prior art references</b>	<b>Date of publication/use/offer for sale/sale</b>	<b>Claim(s) anticipated</b>
Connect, or related documentation (e.g., CMCST_1487259-7292, CMCST_1486367-74, CMCST_2128358-CMCST_2128455)	Documentation related to Liberate TV was published on, e.g., Liberate.com, no later than June 2, 2004.	

**2. Obviousness**

**a. Exemplary prior art combinations**

Comcast identifies in the chart below the exemplary prior art combinations that render obvious each of the asserted claims of the '431 patent under 35 U.S.C. § 103. In addition to the documentary and other prior art mentioned below, Comcast also intends to, and reserves its right to rely upon, the admitted prior art (including portions of the passages referenced from column 1, line 15 to column 7, line 7 in the '431 patent as well as in the prosecution history, for example, at 2011-10-11 Response at p. 11 and 2012-4-2 Response at 12) to demonstrate obviousness of the asserted claims when combined with the identified prior art or prior art combinations. In addition, Comcast further contends that each of the claims identified as anticipated above are also invalid as obvious over each anticipatory reference, either alone or in addition to the common sense possessed and applied by those of ordinary skill in the art. Indeed, "[i]t is well settled that 'anticipation is the epitome of obviousness.'" *In re McDaniel*, 293 F.3d 1379, 1385 (Fed. Cir. 2002) (quoting *In re Fracalossi*, 681 F.2d 792, 794 (C.C.P.A. 1982)). As such, prior art disclosures that anticipate a patent also generally render it invalid for obviousness. *See, e.g., Johns Hopkins Univ. v. CellPro, Inc.*, 152 F.3d 1342, 1357 n.21 (Fed. Cir. 1998). Because the above references anticipate certain asserted claims, they also generally render those same claims obvious. To the extent one or more of the anticipating references is found not to anticipate, Comcast reserves the



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right to identify other combinable references, in addition to those set forth below, that demonstrate the obviousness of the claimed subject matter.

Combination No.	Exemplary Combinations
<b>Claim 1</b>	
1	<b>JumpTV</b> (CMCS T_1487044-88) in combination with U.S. patent app. 2003/0051246 and/or U.S. patent nos. 5,592,551 or 8,095,954. ← <b>Walter</b>
2	U.S. patent no. 6,684,399 in combination with UK patent app. 2377578; U.S. patent no. 7,603,687; PCT publication WO 0141430; PCT publication WO 1999035843; U.S. patent no. 5,592,551; and/or U.S. patent no. 5,880,768.
3	U.S. patent no. 6,182,094 in combination with U.S. patent no. 6,163,316
4	U.S. patent no. 7,103,905 in combination with U.S. patent no. 5,880,768
5	U.S. patent app. 2002/0184629 in combination with U.S. patent no. 5,592,551
6	U.S. patent 5,801,787 in combination with UK patent app. 2377578; U.S. patent no. 7,603,687; PCT publication WO 0141430; PCT publication WO 1999035843; U.S. patent no. 5592551; and/or U.S. patent no. 5,880,768
7	U.S. patent app. 2004/0078807 in combination with <b>JumpTV</b> ; EP15117559; U.S. patent 7,373,652; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication <b>WO 2000052928</b> ; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; U.S. patent no. 5592551; and/or U.S. patent no. 5,880,768. ← <b>Schoaff</b>
8	U.S. patent app. 2004/0068740 in combination with UK patent app. 2377578; U.S. patent no. 7,603,687; PCT publication WO 0141430; PCT publication WO 1999035843; U.S. patent no. 5592551; and/or U.S. patent no. 5,880,768
9	UK patent app. 2377578 in combination with <b>JumpTV</b> ; EP15117559; U.S. patent app. 2004/0078807; U.S. patent app. 2002/0053084; U.S. patent app. 2009/0307726; UK patent app. 2353123; U.S. patent no. 7,603,687; U.S. patent app. 2005/0172315; PCT publication <b>WO 2000052928</b> ; PCT publication WO 1999035843; and/or U.S. patent no. 8,255,953 <b>Schoaff</b>

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10	<b>U.S. patent app. 2002/0053084</b> in combination with U.S. patent no. 7,603,687; PCT publication WO 0141430; PCT publication WO 1999035843; U.S. patent no. 5592551; and/or U.S. patent no. 5,880,768
11	<b>UK patent app. 2353123</b> in combination with UK patent app. 2377578; U.S. patent no. 7,603,687; PCT publication WO 0141430; PCT publication WO 1999035843; U.S. patent no. 5592551; and/or U.S. patent no. 5,880,768
12	<b>U.S. patent app. 2005/0172315</b> in combination with JumpTV; EP1517559; UK patent app. 2377578; U.S. patent no. 7,603,687; PCT publication WO 0141430; PCT publication WO 1999035843; U.S. patent no. 5592551; and/or U.S. patent no. 5,880,768
13	<b>PCT publication WO 0141430</b> in combination with JumpTV; EP1517559; U.S. patent no. 6,604,242; UK patent app. 2377578; U.S. patent app. 20020053084; UK patent app. 2353123; U.S. patent no. 7,603,687; PCT publication WO 1999035843; U.S. patent no. 7,103,905; and/or U.S. patent no. 8,255,953.
<b>Schoaff</b> 14	<b>PCT publication WO 2000052928</b> in combination with JumpTV; EP1517559; PCT publication WO 0141430; U.S. patent no. 6,604,242; UK patent app. 2377578; U.S. patent app. 20020053084; UK patent app. 2353123; U.S. patent no. 7,603,687; PCT publication WO 1999035843; U.S. patent no. 7,103,905; U.S. patent no. 8,255,953; U.S. patent no. 5592551; and/or U.S. patent no. 5,880,768
15	<b>PCT publication WO 1999035843</b> in combination with JumpTV; EP1517559; U.S. patent no. 5,801,787; U.S. patent app 2004/0068740; U.S. Patent No. 6993,221; U.S. patent app. no. 2004/0040039; UK patent app. 1099341; U.S. patent app. 2002/0157100; 7,103,905; and/or U.S. patent app. 2002/0184629.
16	<b>U.S. patent no. 6,522,342</b> in combination with JumpTV; EP1517559; U.S. patent no. 6,604,242; UK patent app. 2377578; U.S. patent app. 20020053084; UK patent app. 2353123; U.S. patent no. 7,603,687; PCT publication WO 1999035843; U.S. patent no. 7,103,905; and/or U.S. patent no. 8,255,953
<b>Bayrakeri</b> 17	<b>U.S. patent app. 2005/0172315</b> in combination with JumpTV; EP1517559; U.S. patent 7,373,652; U.S. Patent No. 6,817,027; UK patent app. 2353123; UK patent app. 1099341; PCT publication WO 1999035843; U.S. patent app. 2002/0157100; PCT publication WO 0141430; PCT publication WO 1999035843; U.S. patent no. 5,592,551; and/or U.S. patent no. 5,880,768.
18	<b>PCT app. WO 2004/082268</b> in combination with JumpTV; EP1517559; PCT publication WO 0141430; U.S. patent no. 6,604,242; UK patent app. 2377578; U.S. patent app. 20020053084; UK patent app. 2353123; U.S. patent no. 7,603,687; PCT publication WO 1999035843; U.S. patent no. 7,103,905; U.S. patent no. 8,255,953; U.S. patent no. 5592551; and/or U.S. patent no. 5,880,768.



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<p><b>Walter</b></p> <p>19</p> <p><b>Schoaff</b></p>	<p><b>U.S. patent no. 8,095,954<sup>3</sup></b> in combination with JumpTV; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication <b>WO 2000052928</b>; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.</p>
<p>20</p> <p><b>Schoaff</b></p>	<p><b>U.S. patent app. 2002/0144281 or 2002/0144289</b> in combination with JumpTV; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication <b>WO 2000052928</b>; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.</p>
<p><b>Ramraz</b></p> <p>21</p> <p><b>Schoaff</b></p>	<p><b>U.S. patent no. 7,546,623</b> in combination with JumpTV; U.S. patent <b>7,373,652</b>; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication <b>WO 2000052928</b>; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.</p>
<p>22</p> <p><b>Schoaff</b></p>	<p><b>U.S. patent no. 6,195,692</b> in combination with JumpTV; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication <b>WO 2000052928</b>; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.</p>
<p>23</p>	<p><b>U.S. patent no. 6,182,287</b> in combination with JumpTV; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S.</p>

<sup>3</sup> Comcast contends that this reference and others anticipate one or more of the asserted claims. However, to the extent it may be alleged or found that such references do not anticipate, Comcast contends that the references would render obvious the asserted claims at least in combination with the prior art identified with respect to each reference.



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<b>Schoaff</b>	patent app. 2005/0172315; PCT publication WO 0141430; PCT publication WO 2000052928; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.
24 <b>Schoaff</b>	U.S. patent app. 2004/0040039 in combination with JumpTV; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication WO 2000052928; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.
25 <b>Schoaff</b>	U.S. patent app. 2002/0180781 in combination with JumpTV; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication WO 2000052928; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.
26 <b>Schoaff</b>	U.S. patent app. 2005/0076363 in combination with JumpTV; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication WO 2000052928; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.
27 <b>Schoaff</b>	U.S. patent app. 2003/0093807 in combination with JumpTV; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication WO 2000052928; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.
28	U.S. patent app. 2003/0066085 in combination with JumpTV; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT



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<b>Schoaff</b>	publication <b>WO 2000052928</b> ; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.
29 <b>Schoaff</b>	<b>PCT publication WO 0027122</b> in combination with <b>JumpTV</b> ; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication <b>WO 2000052928</b> ; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.
30 <b>Schoaff</b>	<b>U.S. patent no. 6,182,094</b> in combination with <b>JumpTV</b> ; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication <b>WO 2000052928</b> ; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.
31 <b>Schoaff</b>	<b>EU patent app. publication 1517559</b> in combination with <b>JumpTV</b> ; U.S. patent no. 6,684,399; U.S. patent no. 6,182,094; U.S. patent no. 7,103,905; U.S. patent app. 2002/0184629; U.S. patent 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2004/0068740; UK patent app. 2377578; U.S. patent app. 2002/0053084; UK patent app. 2353123; U.S. patent app. 2005/0172315; PCT publication WO 0141430; PCT publication <b>WO 2000052928</b> ; PCT publication WO 1999035843; U.S. patent app. 2005/0172315; PCT app. WO 2004/082268; U.S. patent no. 6,522,342; and/or one or more of the references for which Comcast contends anticipates claim 1.
<b>Claim 3</b>	
Any of the references identified as anticipating claim 1 further in combination with U.S. patent app. 2005/0172315; U.S. patent app. 2005/0076363; EP 0 988 754 B1; U.S. patent no. 6,481,010; U.S. patent app. 2006/0085826; U.S. patent app. 2003/0023427; U.S. patent no. 7,793,326; U.S. patent app. 2002/0151271; and/or U.S. app. 2005/0097595.	
Any of the combinations identified with respect to claim 1 by themselves or further in combination with U.S. patent app. 2005/0172315; EP 0 988 754 B1; U.S. patent no. 6,481,010; U.S. patent app. 2006/0085826; U.S. patent app. 2003/0023427; U.S. patent no. 7,793,326; U.S. patent app. 2002/0151271; and/or U.S. app. 2005/0097595.	
Comcast contends that the '431 patent does not disclose sufficient structure and algorithm for the means-plus-function term "digital rights management module" in claim 3, and therefore Comcast cannot identify that undisclosed structure/algorithm in the prior art. However, to the extent that Plaintiff claims	



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that Comcast's purported "content security and DRM" feature meets that claim language, that same feature is disclosed in the prior art references, including at the following exemplary citations:

U.S. patent app. 2005/0172315 (e.g., EPG provider 130 comprises software for evaluating access rights as described at, e.g., [0044]); EP 0 988 754 B1 (e.g., STB 400 comprising smart card 420 used for accessing user rights and performing DRM); U.S. patent no. 6,481,010 (e.g., smart card 234 used for accessing user rights and performing DRM); U.S. patent app. 2006/0085826 (e.g., client device 400 queries license manager database for user access rights as described in para. [0052]); U.S. patent app. 2003/0023427 (describing digital rights management scheme used by a device at, e.g., [0130], [0178]-[0182]); U.S. patent no. 7,793,326 (e.g., 25:40-45 – "content delivery server 450 analyzes the user's profile information and the content metadata and, if applicable, instructs the digital rights management processor 454 to apply the appropriate DRM scheme to the content delivery"); U.S. patent app. 2002/0151271 ([0033], [0148-50], Fig. 2, 16); and/or U.S. app. 2005/0097595 (e.g., content receiver 110 including, e.g., processor 310 and watermark module 360).

**Claim 4**

Any of the references identified as anticipating claim 1 further in combination with U.S. app. 2005/0097595; U.S. patent app. 2003/0107675; and/or U.S. patent no. 6,009,116.

Any of the combinations identified with respect to claim 1 in combination with U.S. app. 2005/0097595; WO1998047237A1; U.S. patent app. 2003/0110490; U.S. patent app. 2003/0107675; and/or U.S. patent no. 6,009,116.

**Bednarek**

Comcast contends that the '431 patent does not disclose sufficient structure and algorithm for the means-plus-function term "filtering module" in claim 4, and therefore Comcast cannot identify that undisclosed structure/algorithm in the prior art. However, to the extent that Plaintiff claims that Comcast's purported "blackout restriction" feature meets that claim language, receiver 110 in U.S. app. 2005/0097595 and the "customer access control system," depicted as, e.g., element 20 in Figure 1 or as Figure 2 comprise that same feature; see also U.S. patent app. 2003/0107675 [para. [0008], [0018], [0024], Fig. 1, 2).

**Claim 5**

Any of the references identified as anticipating claim 1.

Any of the combinations identified with respect to claim 1.

**Claim 6**

Any of the references identified as anticipating claim 1 further in combination with U.S. patent no. 7,260,538; U.S. patent app. 2009/0307726; U.S. Patent No. 6,817,027; U.S. patent app. 2004/0040039; U.S. patent app. 2005/0076363; EP 1 099 341; U.S. patent app. 2003/0093807; U.S. patent app. 2003/006085; U.S. patent app. 2002/0157100; PCT app. WO 0141430; PCT app. WO 2000027122; U.S. patent no. 6,643,620; and/or U.S. patent app. 2002/0151271.

**Calderone**



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Any of the combinations identified with respect to claim 1 by themselves or in combination with U.S. patent no. 7,260,538; U.S. patent app. 2009/0307726; U.S. Patent No. 6,817,027; U.S. patent app. 2004/0040039; U.S. patent app. 2005/0076363; EP 1 099 341; U.S. patent app. 2003/0093807; U.S. patent app. 2003/0066085; U.S. patent app. 2002/0157100; PCT app. WO 0141430; U.S. patent app. 2002/0151271; U.S. patent no. 6,643,620; and/or PCT app. WO 2000027122.

Comcast contends that the '431 patent does not disclose sufficient structure and algorithm for the means-plus-function term "voice recognition module" in claim 6, and therefore Comcast cannot identify that undisclosed structure/algorithm in the prior art. However, to the extent that Plaintiff claims that Comcast's purported "voice remote [that] accepts voice commands and converts those commands into digital form" meets that claim language, the prior art references also disclose the same functionality at the following exemplary citations:

**Calderone**

U.S. patent no. 7,260,538 (voice remote control at, e.g., 2:21-39); U.S. 6,817,027 (voice recognition system 126 at, e.g., 4:17-20); U.S. patent app. 2009/0307726 (server with voice recognition input at, e.g., [0031]); U.S. patent app. 2004/0040039 (voice activated remote control device at, e.g., [0043]); U.S. patent app. 2005/0076363 (voice recognition input device at, e.g., [0039]); EP 1 099 341 (voice recognition system at, e.g., [0044]); U.S. patent app. 2003/0093807 (voice recognition technology at, e.g., [0019]); U.S. patent app. 2003/0066085 (voice recognition device at, e.g., [0062]); U.S. patent app. 2002/0157100 (voice recognition input device at, e.g., [0024]); PCT app. WO 0141430 (voice recognition system at, e.g., pg. 12, line 27); U.S. patent app. 2003/0023427 (voice recognition software module at [0124]); U.S. patent no. 6,643,620 (col. 7, lines 1-12, Fig. 1); and/or PCT app. WO 2000027122 (voice recognition device at pg. 31, lines 17-24).

**Claim 7**

Any of the combinations identified with respect to claim 1.

**Claim 8**

Any of the combinations identified with respect to claim 1.

Comcast contends that the '431 patent does not disclose sufficient structure and algorithm for the means-plus-function term "relay module" in claim 8, and therefore Comcast cannot identify that undisclosed structure/algorithm in the prior art. However, to the extent that Plaintiff claims that Comcast's purported set top box for delivering the IPG and data to a display device meets that claim language, Comcast contends that the set top boxes disclosed in each of the cited prior art references also include that functionality.

**Schoaff**

**Claim 9**

Any of the references identified as anticipating claim 1 in combination with U.S. patent no. 8,255,953; PCT app. WO 2000052928A1; U.S. patent no. 6,529,680; U.S. Patent No. 6,992,728; U.S. patent no. 7,546,623; U.S. patent no. 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2002/0144281; U.S. patent app. 2003/0107675; and/or U.S. patent no. 6,700,624.

**Ramraz**

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**Schoaff**

Any of the combinations identified with respect to claim 1 by themselves or in combination with U.S. patent no. 8,255,953; PCT app. WO 2000052928A1; U.S. patent no. 6,529,680; U.S. Patent No. 6,992,728; U.S. patent no. 7,546,623; U.S. patent no. 5,801,787; U.S. patent app. 2004/0078807; U.S. patent app. 2002/0144281; U.S. patent app. 2003/0107675; and/or U.S. patent no. 6,700,624.

**Ramraz**

**b. Exemplary Reasons to Combine**

A person of ordinary skill in the art at the time of the alleged invention of the '431 patent would have been motivated to combine each of the prior art references for the following reasons.

The reasons to combine the references in the specific manner shown above come from many sources, including, but not limited to, the teachings of the prior art itself, the knowledge and common sense of those of ordinary skill in the art, the body of knowledge presumed to be known to those of skill in the art, the common field of technology of the references, and the teachings in the references directed to solving the purported problems that the '431 patent was allegedly directed to solving. The cited prior art references identify and address many of the same technical issues and suggest similar solutions to those issues. Accordingly, the teachings of the individual prior art references, combined with the knowledge of a person of ordinary skill in the art at the time of the alleged invention of the '431 patent, would render obvious the asserted claims of these patents. Furthermore, the combinations above reflect predictable variations of known devices and systems, combinations that would be obvious to try, the use of known techniques to improve similar devices and systems, improvements that are no more than predictable uses of prior art elements according to their established functions, and combinations of familiar elements according to known methods to yield predictable results.

In addition, as to each of the prior art combinations, one of ordinary skill in the art at the time of the alleged invention would have had reason to combine the many familiar elements of devices for providing interactive program guides and video content over a network according to