IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TV GUIDE ONLINE, INC. and TV GUIDE ONLINE, LLC Plaintiffs, v. TRIBUNE MEDIA SERVICES, INC. Defendant.	Civil Action No. 05-725-SLR/LPS

PLAINTIFFS' RESPONSE TO TRIBUNE'S CITATION OF SUBSEQUENT AUTHORITY IN CONNECTION WITH ITS OBJECTIONS TO THE REPORT AND RECOMMENDATION CONCERNING DEFENDANT TRIBUNE'S MOTION TO DISMISS PLAINTIFF TV GUIDE ONLINE, INC. FOR LACK OF STANDING

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Dated: June 24, 2008

Plaintiffs TV Guide Online, Inc. ("TVGI") and TV Guide Online, LLC ("TVGL") (collectively "Plaintiffs") respectfully submit this response to Defendant Tribune Media Services, Inc.'s ("TMS") June 11, 2008 citation of the *Mars, Inc. v. Coin Acceptors, Inc.*, No. 2007-1409 (Fed. Cir. June 2, 2008) case. Contrary to TMS's assertions, the *Mars* case does not "cast doubt" on Magistrate Judge Stark's Report. To the contrary, it provides further support for his recommendation that TMS's motion to dismiss be denied.

Just like the other "new" cases cited by TMS in its Objections, the license at issue in the *Mars* case also bears no resemblance to the license agreement at issue in this action. The agreement in *Mars* makes no express reference to an "exclusive license." The Court, thus, looked at past licensing to determine whether an exclusive license could have been implied. *Mars* at 12-13. In this action, the license agreement between TVGL and TVGI expressly granted an "exclusive license" and "the exclusive right under the '078 patent to grant sublicenses to others" (D.I. 277 at 7). Under these circumstances, past licensing cannot nullify the express grant of an exclusive license (D.I. 152 at 3).

The *Mars* case also confirms that the substantive rights granted to TVGI in the license agreement are sufficient to confer standing on TVGI to bring this action in conjunction with TVGL. In *Mars*, the only right being transferred was the right to sue. The Court found that this transfer alone does not confer standing, especially in contrast to another agreement in which the "entire interest" in the patents was transferred. *Mars* at 19-20. In this action, TVGI has the responsibility of maintaining the patent, was granted an exclusive license to practice the patent and to sublicense the patent, in addition to the right to sue and recover damages (D.I. 277 at 7). As the exclusive licensee, TVGI has standing to sue along with TVGL, the patent owner.

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CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2008, I electronically filed the foregoing document with the Clerk of Court using CM/ECF which will send notification of such filing(s) and Hand Delivered to the following:

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I hereby certify that on June 24, 2008, I have sent by electronic mail, the foregoing document to the following non-registered participant:

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