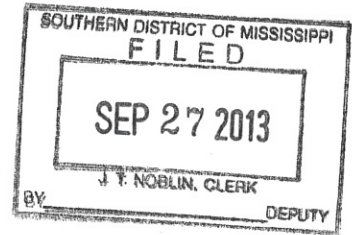


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



CREST AUDIO, INC.

Plaintiff,

v.

QSC AUDIO PRODUCTS, LLC,

Defendant.

Civil Action File No:

3:13cv610 DJF-
FKB

COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW the plaintiff in this action, Crest Audio, Inc. (“Plaintiff” or “Crest Audio”) states its Complaint against Defendant QSC Audio Products, LLC (“QSC”) as follows:

INTRODUCTION

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code (35 U.S.C. § 1 *et seq.*) to enjoin infringement and obtain damages from Defendant’s unauthorized manufacture, use, sale, offer to sell, and/or importation into the United States for the subsequent use or sale of products or methods that infringe one or more claims of U.S. Patent No. 5,652,544 entitled “Apparatus and Method for Programming an Amplifier” (hereinafter “the ‘544 patent” or “patent-in-suit”), which patent is owned by Crest Audio.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

3. Venue is proper in this judicial district and division pursuant to 28 U.S.C. §§1391(b) and (c) and 1400(b) in that, upon information and belief, Defendant has transacted business in this District, has committed acts of infringement in this District, and continues to commit acts of infringement in this District by making, selling, using, and/or offering to sell products and services accused of infringing Crest Audio's patent.

4. Upon information and belief, the Court has personal jurisdiction over QSC due to QSC's contacts within the State of Mississippi arising from Defendant's continuous, systematic, and purposeful conduct of business within this District, such that the Defendant should reasonably anticipate being haled into court in this jurisdiction.

5. Upon information and belief, Defendant QSC may be served this Complaint via the following registered agent, as listed with the California Secretary of State: Coby N. Keller, 19900 MacArthur Blvd., Ste. 800, Irvine, CA 92612-2445.

PARTIES

6. Crest Audio, a wholly-owned subsidiary of Peavey Electronics Corporation of Meridian, Mississippi, is a New Jersey corporation having its principal place of business at 5022 Hwy 493, Meridian, Mississippi 39305, which is also the location of Peavey Electronics Corporation.

7. Crest Audio is the owner, by assignment, of all right, title, and interest in and to the '544 patent, including the rights to bring suit and recover damages for patent infringement.

8. Upon information and belief, Defendant QSC is a California limited liability company with its principal place of business at 1675 MacArthur Blvd., Costa Mesa, California 92626.

FACTUAL BACKGROUND

9. Crest Audio is the owner, by assignment, of all right, title, and interest in and to the '544 patent entitled "Apparatus and Method for Programming an Amplifier," which issued from the United States Patent and Trademark Office on July 29, 1997. The '544 patent, in general, claims an apparatus and method for programming a signal processing circuit of an amplifier, and, more particularly, an amplifier and a portable amplifier programmer capable of being removably connected to the amplifier to read and/or change various parameters of an amplifier signal processing circuit to thereby modify a signal output from the amplifier.

10. A true and correct copy of the '544 patent is attached hereto as Exhibit A.

11. The application for the '544 patent was filed on November 16, 1995 and claims priority to U.S. Patent Application No. 337,157 filed on November 9, 2004.

12. The '544 patent is currently in full force and effect and, in accordance with 35 U.S.C. § 282, the '544 patent, and each and every claim thereof, are presumed to be valid.

13. Defendant has had knowledge of the '544 patent at least since June of 2013.

14. On information and belief, Defendant infringes one or more claims of the '544 patent by the manufacture, importation, use, sale, and/or offer for sale of one or more power amplifiers and/or related appliances, including but not limited to its "CXD Series" and "PLD Series" power amplifiers, through various distributors and online and in-store retailers.

15. As a direct and proximate cause of the infringement by Defendant and unless Defendant is enjoined by the Court from manufacturing, importing, offering to sell, selling, or using within the United States products covered by the claims of the '544 patent, Crest Audio is

being and will continue to be substantially and irreparably harmed in its business and property rights.

COUNT ONE:
INFRINGEMENT OF U.S. PATENT NO. 5,652,544

16. Crest Audio realleges and incorporates herein the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

17. Upon information and belief, Defendant QSC makes, uses, sells, offers for sale, and/or imports one or more audio power amplifiers, amplifier systems, and/or related appliances, including but not limited to products known as QSC's "CXD Series" and "PLD Series" power amplifiers and related software and/or hardware ("hereinafter referred to as "Defendant's accused audio amplifier products").

18. Upon information and belief, Defendant's customers use, sell, and/or offer for sale one or more of Defendant's accused audio power amplifier products and/or related appliances.

19. Upon information and belief, Defendant has infringed directly and/or indirectly and continues to infringe directly and/or indirectly the '544 patent.

20. Defendant's infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of Defendant's accused audio power amplifier products and/or related appliances, which are material to the practice of the invention of the '544 patent.

21. Additionally, upon information and belief, customers of Defendant who use, sell, and/or offer to sell Defendant's accused audio power amplifier products and/or related appliances directly infringe the '544 patent, at least because such products are designed,

configured, especially made, especially adapted, wired, constructed and/or built for use in an infringing manner.

22. Upon information and belief, based at least on the manner in that Defendant's accused audio power amplifier products and/or related appliances are designed, configured, especially made, especially adapted, wired, constructed and/or built, Defendant's accused audio power amplifier products and/or related appliances have no substantial uses other than those uses that infringe the '544 patent.

23. Defendant's accused audio power amplifier products and/or related appliances are designed, configured, especially made, especially adapted, wired, constructed and/or built in a manner in which at least some functions of the audio power amplifier and/or related appliances are set at the design/production level and not user accessible.

24. Upon information and belief, Defendant's accused audio power amplifier products and/or related appliances, including the exemplary products identified above, with Defendant's knowledge and intention, are designed, configured, especially made, especially adapted, wired, constructed, built and sold by Defendant to Defendant's customers for use without modification to internal circuits, wiring, chips, processors, etc. inside the housing/enclosure.

25. Upon information and belief, by way of example, Defendant's accused audio power amplifier products and/or related appliances are designed, configured, especially made, especially adapted, wired, constructed, preset and/or built with a Euro-style connector and/or XLR input, a class D amplifier and/or power module, and a USB port.

26. Upon information and belief, with Defendant's knowledge of same, Defendant's customers use one or more of Defendant's accused audio power amplifier products in such a manner whereby a controller executing software and including a USB-enabled computing device is removably connected to the accused amplifier product and can modify at least one signal processing function parameter.

27. Defendant has known about the '544 patent for at least a period of time during the period in which Defendant has infringed the '544 patent, which at least includes since June of 2013.

28. For at least a period of time during the period whereby Defendant has infringed the '544 patent, Defendant has knowingly provided and continues to provide detailed information to purchasers and/or users of Defendant's audio power amplifier and/or related appliances instructing how to use Defendant's audio power amplifier and/or related appliances in the manner designed, configured, especially made, especially adapted, wired, constructed, built, sold and intended by Defendant.

29. For at least a period of time during the period whereby Defendant has infringed the '544 patent, Defendant has advertised and continues to advertise the features, benefits and specifications of Defendant's audio power amplifier and/or related appliances at www.qsc.com for the purpose of inducing Defendant's customers to purchase and use Defendant's accused audio power amplifier products and/or related appliances.

30. Defendant intends for Defendant's accused audio power amplifier products and/or related appliances to be used by users (*i.e.*, Defendant's customers) in the manner in which

Defendant's accused audio power amplifier products and/or related appliances are designed, configured, especially made, especially adapted, wired, constructed, built and sold by Defendant.

31. Defendant has been aware that Defendant's audio power amplifier and/or related appliances infringe the '544 patent for at least a period of time during the period in which Defendant's audio power amplifier have infringed the '544 patent.

32. For at least a period of time during the period in which Defendant has infringed the '544 patent, according to Defendant's Internet web site at www.qsc.com, Defendant has made, used, sold, offered to sell, and/or imported Defendant's accused audio power amplifier products and/or related appliances and knowingly continues to do same.

33. For at least a period of time during the period in which Defendant has infringed the '544 patent, Defendant has made, used, sold, offered to sell, and/or imported Defendant's audio power amplifier and/or related appliances with the knowledge and/or intention that Defendant's actions likely resulted in infringement of the '544 patent and continues to do same.

34. For at least a period of time during the period in which Defendant has infringed the '544 patent, Defendant has made, used, sold, offered to sell, and/or imported Defendant's accused audio power amplifier products and/or related appliances despite an objectively high likelihood that Defendant's actions constitute infringement of the '544 patent and continues to do same.

35. For at least a period of time during the period whereby Defendant has infringed the '544 patent, Defendant on its Internet web site at www.qsc.com has advertised to customers the specifications, features and benefits of Defendant's accused audio power amplifier products and/or related appliances with the purpose of selling to Defendant's customers Defendant's

accused audio power amplifier products and/or related appliances for subsequent use by Defendant's customers and continues to do same.

36. Upon information and belief, and based on the facts expressed above, Defendant's infringement of the '544 patent is willful.

37. Upon information and belief, Crest has been irreparably harmed by Defendant's infringements of Crest's patent rights.

38. Defendant's unauthorized and infringing uses of Crest Audio's '544 patent have threatened the value of this intellectual property, because Defendant's conduct results in loss of Crest Audio's lawful patent rights to exclude others from making, using, selling, offering to sell and/or importing the patented invention.

39. As a direct and proximate consequence of the acts and practices of Defendant, including the aforementioned acts of infringement of the '544 patent by Defendant, Crest Audio has been, is being and, unless such acts and practices are enjoined by the Court, will continue to be injured in its business and property rights, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 in an amount subject to proof at trial.

COUNT TWO:
PRELIMINARY INJUNCTION

40. Crest Audio realleges and incorporates herein the allegations of contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

41. As a direct and proximate consequence of the acts and practices of Defendant, including the aforementioned acts of infringement of the '544 patent by Defendant, Defendant has also caused, is causing and, unless such acts and practices are enjoined by the Court, will

continue to cause irreparable harm to Crest Audio for which there is no adequate remedy at law, and for which Crest Audio is entitled to injunctive relief under 35 U.S.C. § 283.

PRAYER FOR RELIEF


WHEREFORE, Plaintiff Crest Audio prays that the Court enter judgment in its favor and against Defendant as follows:

- A. That the Court enter judgment of infringement against Defendant;
- B. That Defendant be ordered to pay damages adequate to compensate Crest Audio for its acts of infringement, pursuant to 35 U.S.C. § 284;
- C. That Crest Audio be awarded increased damages under 35 U.S.C. § 284 due to Defendant's willful infringement of the '544 patents;
- D. That the Court find that this case is exceptional and award Crest Audio its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
- E. That Defendant, its officers, agents, employees, and those acting in privity with it, be enjoined from further infringement, contributory infringement, and/or inducing infringement of the patent-in-suit, pursuant to 35 U.S.C. § 283;
- F. That Defendant be ordered to pay prejudgment and post-judgment interest;
- G. That Defendant be ordered to pay all costs associated with this action; and
- H. That Crest Audio be granted such other and additional relief as the Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Pursuant to FED. R. CIV. P. 38(b), Plaintiff Crest Audio, Inc. demands a trial by jury of all issues triable of right by a jury.

Respectfully submitted, this 27th day of September, 2013.



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