

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

DELAWARE RADIO TECHNOLOGIES,  
LLC and WYNCOMM, LLC,

Plaintiffs,

v.

TOWNSQUARE MEDIA, LLC,

Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Delaware Radio Technologies, LLC and Wyncomm, LLC (“Plaintiffs”), by way of this Complaint for Patent Infringement (“Complaint”) against Defendant Townsquare Media, LLC (“Defendant” or “Townsquare Media”), alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff Delaware Radio Technologies, LLC (“Delaware Radio”) is a limited liability company organized under the laws of the State of Delaware with a place of business at 1209 Orange Street, Wilmington, Delaware 19801.

3. Plaintiff Wyncomm, LLC (“Wyncomm”) is a limited liability company organized under the laws of the State of Delaware with a place of business at 113 Barksdale Professional Center, Newark, Delaware 19711.

4. Upon information and belief, Townsquare Media, is a limited liability company organized under the laws of Delaware, with its principal place of business at 240 Greenwich Ave, Greenwich, Connecticut 06830, and a registered agent at Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. Defendant sells and/or offers to sell products and/or services throughout the United States, including in this Judicial District. Further, Defendant introduces infringing products and/or services into the stream of commerce knowing that they would be sold in this Judicial District and elsewhere in the United States.

### **JURISDICTION AND VENUE**

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271, *et seq.*

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendant at least because Defendant has ongoing and systematic contacts with this District and the United States. Specifically, Defendant is a limited liability company organized under the laws of Delaware, has a registered agent for service of process in Delaware, and has thereby availed itself of the privileges and the protections of the laws of the State of Delaware.

8. Venue is proper in this District under 28 U.S.C. §§ 1400 (b) and 1391.

### **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,506,866**

9. The allegations set forth in the foregoing paragraphs 1 through 8 are hereby realleged and incorporated herein by reference.

10. On April 9, 1996, U.S. Patent No. 5,506,866 (the “866 Patent”), entitled “Side-Channel Communications in Simultaneous Voice and Data Transmission,” was duly and legally

issued by the United States Patent and Trademark Office. A true and correct copy of the '866 Patent is attached as Exhibit A to this Complaint.

11. Wyncomm is the owner of any and all right, title, and interest in and to the patent excluding the field of HD Radio and any related technology.

12. Delaware Radio is the exclusive licensee of the '866 Patent, including the exclusive right to assert all causes of action arising under said patent in the field of HD Radio and any related technology and the right to any remedies for infringement of it.

13. In violation of 35 U.S.C. § 271, Defendant, including its affiliates, has directly infringed and continues to directly infringe, both literally and under the doctrine of equivalents, one or more claims of the '866 Patent through its transmission of radio broadcasts using HD radio transmission techniques further described in the IBOC Digital Radio Broadcasting Standard (the "Accused Instrumentalities").

14. Because of Defendant's infringement of the '866 Patent, Plaintiff has suffered damages and will continue to suffer damages in the future.

15. Delaware Radio has suffered irreparable injury due to the acts of infringement by Defendant and will continue to suffer such irreparable injury unless Defendant's infringing activities are enjoined.

16. Defendants will be deemed to have knowledge of the '866 Patent and their infringement thereof at least as of the filing date of this Complaint.

**COUNT II – INFRINGEMENT OF U.S. PATENT NO. 5,475,691**

17. The allegations set forth in the foregoing paragraphs 1 through 16 are hereby realleged and incorporated herein by reference.

18. On December 12, 1995, U.S. Patent No. 5,475,691 (the “’691 Patent”), entitled “Voice Activated Data Rate Change in Simultaneous Voice and Data Transmission,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’691 Patent is attached as Exhibit B to this Complaint.

19. Delaware Radio is the assignee and owner of the right, title and interest in and to the ’691 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

20. In violation of 35 U.S.C. § 271, Defendant, including its affiliates, has directly infringed and continues to directly infringe, both literally and under the doctrine of equivalents, the ’691 Patent through its transmission of radio broadcasts using HD radio techniques further described by the IBOC Digital Radio Broadcasting Standard (the “Accused Instrumentalities”).

21. Because of Defendant’s infringement of the ’691 Patent, Plaintiff has suffered damages and will continue to suffer damages in the future.

22. Delaware Radio has suffered irreparable injury due to the acts of infringement by Defendant and will continue to suffer such irreparable injury unless Defendant’s infringing activities are enjoined.

23. Defendants will be deemed to have knowledge of the ’691 Patent and their infringement thereof at least as of the filing date of this Complaint.

### **COUNT III – INFRINGEMENT OF U.S. PATENT NO. 5,642,379**

24. The allegations set forth in the foregoing paragraphs 1 through 23 are hereby realleged and incorporated herein by reference.

25. On June 24, 1997, U.S. Patent No. 5,642,379 (the “’379 Patent”), entitled “Technique for Modulating Orthogonal Signals with One or More Analog or Digital Signals,”

was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '379 Patent is attached as Exhibit C to this Complaint.

26. Delaware Radio is the assignee and owner of the right, title and interest in and to the '379 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

27. In violation of 35 U.S.C. § 271, Defendant, including its affiliates, has directly infringed and continues to directly infringe, both literally and under the doctrine of equivalents, the '379 Patent through its transmission of radio broadcasts using HD radio transmission techniques further described in the IBOC Digital Radio Broadcasting Standard” (the “Accused Instrumentalities”).

28. Because of Defendant’s infringement of the '379 Patent, Plaintiff has suffered damages and will continue to suffer damages in the future.

29. Delaware Radio has suffered irreparable injury due to the acts of infringement by Defendant and will continue to suffer such irreparable injury unless Defendant’s infringing activities are enjoined.

30. Defendants will be deemed to have knowledge of the '379 Patent and their infringement thereof at least as of the filing date of this Complaint.

### **JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Delaware Radio demands a trial by jury on all issues so triable.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Delaware Radio Technologies, LLC demands judgment for itself and against Defendant as follows:

- A. An adjudication that Defendant has infringed the '866, '691, and '379 Patents;
- B. An award of damages to be paid by Defendant adequate to compensate Delaware Radio for its past infringement of the '866, '691, and '379 Patents, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. To the extent the Defendant's conduct subsequent to the date of their notice of the '866, '691, and '379 Patents is found to be objectively reckless, enhanced damages pursuant to 35 U.S.C. § 284 for Defendant's willful infringement of the '866, '691, and '379 Patents;
- D. An accounting of all infringing acts including, but not limited to, those acts not presented at trial and an award for Plaintiff's damages for any such acts;
- E. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiffs' reasonable attorneys' fees; and
- F. An award to Delaware Radio of such further relief at law or in equity as the Court deems just and proper.

Respectfully submitted,

Dated: November 1, 2013

STAMOULIS & WEINBLATT LLC

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