

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

AFFINITY LABS OF TEXAS, LLC,)
)
)
 Plaintiff,)
)
 v.)
)
 JAGUAR LAND ROVER NORTH AMERICA,)
 LLC; TATA MOTORS LIMITED)
)
 Defendants.)
)
)

Case No. 6:13-cv-368

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Affinity Labs of Texas, LLC (“Affinity Labs”) for its causes of action against Defendants Jaguar Land Rover North America, LLC and Tata Motors Limited (collectively, “Jaguar Land Rover”), states and alleges on knowledge and information and belief as follows:

PARTIES

1. Plaintiff Affinity Labs is a Texas limited liability company having offices at 31884 RR 12, Dripping Springs, TX 78620.
2. On information and belief, Defendant Jaguar Land Rover North America, LLC is a Delaware limited liability company with its principal place of business located at 555 MacArthur Blvd., Mahwah, New Jersey 07430. Upon information and belief, Jaguar Land Rover North America, LLC is authorized to do business in Texas.
3. On information and belief, Defendant Tata Motors Limited is an Indian company with its principal place of business located at Bombay House, 24, Homi Mody Street, Mumbai, 400001, India.

JURISDICTION

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), in that this action arises under the federal patent statutes, 35 U.S.C. §§ 271 and 281-285.

5. This Court has personal jurisdiction over Defendants. Upon information and belief, Jaguar Land Rover has committed and continues to commit acts giving rise to this action within Texas and within this judicial district and Jaguar Land Rover has established minimum contacts within the forum such that the exercise of jurisdiction over Jaguar Land Rover would not offend traditional notions of fair play and substantial justice. For example, Jaguar Land Rover has committed and continues to commit acts of infringement in this District, by among other things, offering to sell and selling products that infringe the Asserted Patents, including at least, for example, the Range Rover Evoque with Range Rover In-Car Entertainment system. In conducting its business in Texas and this judicial district, Jaguar Land Rover derives substantial revenue from infringing products being sold, used, imported, and/or offered for sale or providing service and support to Jaguar Land Rover's customers in Texas and this District, and will continue to do so unless enjoined by this Court.

VENUE

6. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Defendants have committed acts within this judicial district giving rise to this action, and Defendants have and continue to conduct business in this judicial district, including one or more acts of selling, using, importing, and/or offering for sale infringing products or providing service and support to Defendants' customers in this District.

7. Venue in the Western District of Texas is also proper because Jaguar Land Rover sells Jaguar-branded automobiles in Texas through authorized dealers, including the Western District of Texas. In addition, clicking on “Locate a Retailer” from Jaguar Land Rover’s website (www.jaguarusa.com) directs consumer inquiries to Jaguar-branded dealerships, including Jaguar Austin in Austin, Texas. Consumers can link directly from Jaguar Land Rover’s jaguarusa.com website to Jaguar Austin’s website (www.jaguaraustin.com) and view that dealership’s inventory of new and used Jaguar-branded vehicles offered for sale with online prices.

8. Venue in the Western District of Texas is further proper because Jaguar Land Rover sells Land Rover-branded automobiles in Texas through authorized dealers, including in the Western District of Texas. Clicking on “Locate a Retailer” from Jaguar Land Rover’s website (www.landrover.com) directs consumer inquiries to Land Rover-branded dealerships, including Land Rover Austin, in Austin, Texas. Consumers can also request quotes on Land Rover-branded automobiles from dealerships and link directly to dealership websites via the landrover.com website. Land Rover Austin is located within the Western District and provides listings of Land Rover automobiles for sale on its website (www.landroveraustin.com), including special Internet-based pricing.

9. Venue in the Western District of Texas is further proper because Affinity Labs is headquartered in this District in Dripping Springs, Texas.

10. Venue in the Western District of Texas is further proper because the majority of Affinity Labs’ documents and relevant evidence is located at Affinity Labs’ headquarters within this District and numerous witnesses are also located within this District.

11. Venue in the Western District of Texas is also proper because Affinity Labs is organized and governed by the limited liability company laws of Texas and is subject to taxes in Texas. Affinity Labs maintains a registered agent for service of process in Texas.

12. Venue in the Western District of Texas is also proper because this District is centrally located to resolve common issues of fact among Affinity Labs and the Defendants.

BACKGROUND

Affinity Labs

13. Affinity Labs restates and realleges each of the allegations set forth above and incorporates them herein.

14. Affinity Labs was founded in 2008 by Russell White and Harlie Frost.

15. Russell White is a successful entrepreneur and patent attorney. Mr. White grew up in Houston, Texas, and has an undergraduate degree in mechanical engineering from Texas A&M. Mr. White also graduated from the University of Temple Law School. After earning his law degree, Mr. White co-founded SBC Knowledge Ventures, an entity within AT&T.

16. Mr. White is also a prolific inventor. Mr. White is listed as an inventor on at least twenty-five separate United States patents.

17. On March 28, 2000, Mr. White and Kevin R. Imes filed a detailed patent application, No. 09/537,812 (“the ’812 application”) with the United States Patent and Trademark Office (“PTO”).

18. The ’812 application addressed the problem of navigating through and playing audio content stored on a portable electronic audio device, such as an MP3 player or cell phone, using a different electronic device.

19. The '812 application disclosed the ability to connect a portable electronic device, such as an MP3 player or cell phone, to a second device such as an automobile with a display and sound system. As disclosed in the '812 application, the music available on the portable device can then be displayed and selected using controls on an automobile stereo system, and played through the speakers.

20. Mr. White and Mr. Imes made this disclosure in the '812 application over a year before the iPod was released in October 2001, and years before the functionality of having the music available on a portable device be displayed and selected using controls on an automobile stereo system and played through the speakers was available using an iPhone and some luxury vehicles.

21. On October 8, 2013, the PTO issued United States Patent No. 8,554,191, entitled "System and Method for Managing Media" ("the '191 patent"), a copy of which is attached as Exhibit A. The '191 patent was issued from a continuation application claiming priority to the '812 application.

22. On November 19, 2013, the PTO issued United States Patent No. 8,588,680, entitled "System and Method to Communicate Targeted Information" ("the '680 patent"), a copy of which is attached as Exhibit B. The '680 patent was issued from a continuation application claiming priority to the '812 application.

23. The '191 and '680 patents (collectively, "the Asserted Patents") are in the same patent family and both claim priority to the '812 application, which was filed with the PTO on March 28, 2000 and issued on March 6, 2007 as United States Patent No. 7,187,947, entitled "System and Method for Communicating Selected Information to an Electronic Device."

24. Other patents in the '191 and '680 patent family have been cited by major businesses in the computer, software, communications, automotive, and mobile industries. For example, U.S. Patent No. 7,324,833 and U.S. Patent No. 7,634,228 have been cited in at least 38 patents and publications, with many of these patents assigned to corporations such as Apple, AT&T, Toyota, Google, Nokia, Bose, and Volkswagen.

25. Affinity Labs holds legal title, by assignment, to the Asserted Patents.

COUNT I

Infringement of U.S. Patent No. 8,554,191 by Jaguar Land Rover

26. On information and belief, Defendants manufacture, use, sell, offer to sell, market, import, have manufactured, used, sold, offered to sell, marketed, and/or imported products that infringe or have infringed the '191 patent.

27. As a result, Affinity Labs brings this action to seek damages and injunctive relief arising out of Defendants' infringing acts.

28. Affinity Labs restates and realleges each of the allegations set forth above and incorporates them herein.

29. Upon information and belief, in violation of 35 U.S.C. § 271(a), Jaguar Land Rover has infringed, and if not enjoined, will continue to infringe the '191 patent by (1) manufacturing, using, marketing, selling, offering for sale, and/or importing, without authority, products and services that are covered by one or more claims of the '191 patent, literally and/or under the doctrine of equivalents; (2) inducing infringement of one or more claims of the '191 patent, in violation of 35 U.S.C. § 271(b); and/or (3) contributing to the infringement of one or more claims of the '191 patent, in violation of 35 U.S.C. § 271(c). In particular, Jaguar Land Rover infringes one or more claims of the '191 patent directly and indirectly, literally and under the

doctrine of equivalents, and by inducement and contributory infringement by (1) manufacture, use, marketing of, sale, offer for sale, and/or importation of Jaguar Land Rover automobiles with sound systems, including at least, for example, the Jaguar Land Rover Evoque; and (2) using Jaguar Land Rover automobiles with sound systems, including at least, for example, the Jaguar Land Rover Evoque, as part of the audio system and methods claimed in the '191 patent.

30. Also on information and belief, Jaguar Land Rover markets and sells Jaguar Land Rover automobiles with sound systems, including at least, for example, the Jaguar Land Rover Evoque. Jaguar Land Rover markets and sells its Jaguar Land Rover automobiles with sound systems to customers and potential customers that include, for example, dealerships and other companies in the vehicle industry in the United States, in addition to individual customers in the United States.

31. Also on information and belief, Jaguar Land Rover markets and sells Jaguar Land Rover automobiles containing a Bluetooth compliant communication module supplied by NextGen.

32. In addition, on information and belief, Jaguar Land Rover has actively induced and is actively inducing others, such as Jaguar Land Rover's customers, to directly infringe the '191 patent in this District and elsewhere in the United States in violation of 35 U.S.C. § 271(b). For example, on information and belief, Jaguar Land Rover and/or its distributors or representatives have sold or otherwise provided Jaguar Land Rover automobiles with sound systems—including at least, for example, the Jaguar Land Rover Evoque—to third parties, such as Jaguar Land Rover's customers. Jaguar Land Rover's customers, on information and belief, have directly infringed and are directly infringing the '191 patent. Moreover, Jaguar Land Rover specifically intends for and encourages its customers to use technology in violation of the '191 patent. For

example, by marketing and selling its automobiles with sound systems that are able to pair with a portable electronic device, such as an MP3 player or cell phone, Jaguar Land Rover has encouraged and is encouraging its customers to use its automobiles with sound systems and, thus, to directly infringe the '191 patent.

33. Furthermore, on information and belief, Jaguar Land Rover has also contributed to and is contributing to direct infringement of the '191 patent by third parties, such as Jaguar Land Rover's customers, in this District and elsewhere in the United States, in violation of 35 U.S.C. § 271(c). For example, on information and belief, Jaguar Land Rover has contributed to and is contributing to infringement of the '191 patent by selling its customers Jaguar Land Rover automobiles with sound systems that are able to pair with a portable electronic device, such as an MP3 player or cell phone, including at least, for example, the Jaguar Land Rover Evoque—the use of which by Jaguar Land Rover's customers has directly infringed and is directly infringing the '191 patent.

34. Jaguar Land Rover does not have a license or permission to use the claimed subject matter in the '191 patent.

35. Affinity Labs has been injured and has been caused significant financial damage as a direct and proximate result of Jaguar Land Rover's infringement of the '191 patent.

36. Jaguar Land Rover will continue to infringe the '191 patent, and thus cause irreparable injury and damage to Affinity Labs unless enjoined by this Court.

37. Affinity Labs is entitled to recover from Jaguar Land Rover the damages sustained by Affinity Labs as a result of Jaguar Land Rover's wrongful acts in an amount subject to proof at trial.

COUNT II

Infringement of U.S. Patent No. 8,588,680 by Jaguar Land Rover

38. On information and belief, Defendants manufacture, use, sell, offer to sell, market, import, have manufactured, used, sold, offered to sell, marketed, and/or imported products that infringe or have infringed the '680 patent.

39. As a result, Affinity Labs brings this action to seek damages and injunctive relief arising out of Defendants' infringing acts.

40. Affinity Labs restates and realleges each of the allegations set forth above and incorporates them herein.

41. Upon information and belief, in violation of 35 U.S.C. § 271(a), Jaguar Land Rover has infringed, and if not enjoined, will continue to infringe the '680 patent by (1) manufacturing, using, marketing, selling, offering for sale, and/or importing, without authority, products and services that are covered by one or more claims of the '680 patent, literally and/or under the doctrine of equivalents; (2) inducing infringement of one or more claims of the '680 patent, in violation of 35 U.S.C. § 271(b); and/or (3) contributing to the infringement of one or more claims of the '680 patent, in violation of 35 U.S.C. § 271(c). In particular, Jaguar Land Rover infringes one or more claims of the '680 patent directly and indirectly, literally and under the doctrine of equivalents, and by inducement and contributory infringement by (1) manufacture, use, marketing of, sale, offer for sale, and/or importation of Jaguar Land Rover automobiles with sound systems, including at least, for example, the Jaguar Land Rover Evoque; and (2) using Jaguar Land Rover automobiles with sound systems, including at least, for example, the Jaguar Land Rover Evoque, as part of the audio system and methods claimed in the '680 patent.

42. Also on information and belief, Jaguar Land Rover markets and sells Jaguar Land Rover automobiles with sound systems, including at least, for example, the Jaguar Land Rover Evoque. Jaguar Land Rover markets and sells its Jaguar Land Rover automobiles with sound systems to customers and potential customers that include, for example, dealerships and other companies in the vehicle industry in the United States, in addition to individual customers in the United States.

43. In addition, on information and belief, Jaguar Land Rover has actively induced and is actively inducing others, such as Jaguar Land Rover's customers, to directly infringe the '680 patent in this District and elsewhere in the United States in violation of 35 U.S.C. § 271(b). For example, on information and belief, Jaguar Land Rover and/or its distributors or representatives have sold or otherwise provided Jaguar Land Rover automobiles with sound systems—including at least, for example, the Jaguar Land Rover Evoque—to third parties, such as Jaguar Land Rover's customers. Jaguar Land Rover's customers, on information and belief, have directly infringed and are directly infringing the '680 patent. Moreover, Jaguar Land Rover specifically intends for and encourages its customers to use technology in violation of the '680 patent. For example, by marketing and selling its automobiles with sound systems that are able to pair with a portable electronic device, such as an MP3 player or cell phone, Jaguar Land Rover has encouraged and is encouraging its customers to use its automobiles with sound systems and, thus, to directly infringe the '680 patent.

44. Furthermore, on information and belief, Jaguar Land Rover has also contributed to and is contributing to direct infringement of the '680 patent by third parties, such as Jaguar Land Rover's customers, in this District and elsewhere in the United States, in violation of 35 U.S.C. § 271(c). For example, on information and belief, Jaguar Land Rover has contributed to and is

contributing to infringement of the '680 patent by selling its customers Jaguar Land Rover automobiles with sound systems that are able to pair with a portable electronic device, such as an MP3 player or cell phone, including at least, for example, the Jaguar Land Rover Evoque—the use of which by Jaguar Land Rover's customers has directly infringed and is directly infringing the '680 patent.

45. Jaguar Land Rover does not have a license or permission to use the claimed subject matter in the '680 patent.

46. Affinity Labs has been injured and has been caused significant financial damage as a direct and proximate result of Jaguar Land Rover's infringement of the '680 patent.

47. Jaguar Land Rover will continue to infringe the '680 patent, and thus cause irreparable injury and damage to Affinity Labs unless enjoined by this Court.

48. Affinity Labs is entitled to recover from Jaguar Land Rover the damages sustained by Affinity Labs as a result of Jaguar Land Rover's wrongful acts in an amount subject to proof at trial.

DEMAND FOR TRIAL BY JURY

Affinity Labs demands a jury trial on all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Affinity Labs prays for the following relief:

1. A declaration that Jaguar Land Rover has infringed and is infringing the '191 and '680 patents and is liable to Affinity Labs for infringement;
2. An order enjoining Jaguar Land Rover from infringing the '191 and '680 patents;

3. If a permanent injunction is not granted, a judicial determination of the conditions for future infringement such as a royalty bearing compulsory license or such other relief as the Court deems appropriate;

4. An award of damages, including pre-judgment and post-judgment interest, in an amount adequate to compensate Affinity Labs for Jaguar Land Rover's infringement of the '191 and '680 patents, and that the damages be trebled pursuant to 35 U.S.C. § 284;

5. An equitable accounting of damages owed by Jaguar Land Rover for the period of infringement of the '191 and '680 patents, following the period of damages established by Affinity Labs at trial;

6. A finding that this case is exceptional and an award of attorneys' fees pursuant to 35 U.S.C. § 285;

7. An award of costs, expenses, and disbursements; and

8. Such other and further relief as the Court deems Affinity Labs may be entitled to in law and equity.

