

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ADVANCED AUDIO DEVICES, LLC,	)	
	)	
plaintiff,	)	
	)	
v.	)	No. 1:13-cv-07577
	)	Hon. Thomas M. Durkin
KYOCERA COMMUNICATIONS INC.	)	
	)	
defendant.	)	

**AMENDED COMPLAINT**

The plaintiff, ADVANCED AUDIO DEVICES, LLC [“AAD”], for its Complaint against KYOCERA COMMUNICATIONS INC. [“KYOCERA”], states:

**THE PARTIES**

1. AAD is a limited liability company organized under the laws of the State of Illinois and having a principal place of business at 725 North McKinley Road, Lake Forest, Illinois 60045-1850.

2. KYOCERA is a corporation organized under the laws of the State of California and having a principal place of business at 8611 Balboa Avenue, San Diego, California 92123-1580.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over KYOCERA because KYOCERA regularly transacts business within this judicial district and has committed acts of patent

infringement in this judicial district by selling and offering to sell infringing products in this district, thereby causing injury to AAD in this district. Moreover, KYOCERA maintains an interactive website directed at and accessible by residents of this district, on which users, including residents of this district, can access a knowledge base, obtain warranty information, download spec sheets and user guides, engage in live chat to obtain responses to questions in real time, and obtain technical support information.

5. Venue lies within this judicial district under 28 U.S.C. §§ 1391(b)(2), 1391(c) and 1400(b), and 735 ILCS 5/2-209(1) and (2). KYOCERA is subject to personal jurisdiction in this district because it frequently transacts business in this district, it has committed acts of patent infringement within this district that cause injury to AAD in this district, and it maintains an interactive website directed at residents of this district.

#### **THE INVENTION**

6. Peter Keller, a member of the plaintiff limited liability company, is one of the inventors of the patents asserted in this Complaint. His lifelong love of music includes playing piano from childhood. He is an avid jazz, pop and classical music enthusiast. Starting in the 1970s, Peter developed an extensive music library, mostly stored on reel-to-reel analog audio tape and vinyl records (“LPs”). In 1996, recognizing his tapes and records were beginning to degrade, and wanting to preserve his collection, Peter became frustrated with the inconvenience of (and poor results obtained from) using personal computers to create compact discs from a music library. Out of that frustration, Peter conceived of the Discribe™ Recorder, initially to facilitate converting analog music recordings into high quality digital representations, by editing and archiving them onto CD-R blank media. During prototype development, additional areas of functionality were invented by Peter, including that of a digital music “jukebox”.

7. As a result of that inventive work, Mr. Keller oversaw development of the Discribe™ Recorder, a device that allowed recording of both analog and digital signals onto memory (like a hard drive) and subsequent playback, editing, and/or CD recording. The Discribe™ Recorder was the first device of this kind to be developed, and included on-the-box controls for all of its functions. The consumer-oriented Discribe™ Recorder contained many of the inventions claimed in the patents asserted herein. It was the precursor to a wide variety of related devices now on sale, including both home music “jukebox” units and portable digital music players, as well as other devices that provide similar functionality, including the device accused of patent infringement in this lawsuit.

**COUNT I—INFRINGEMENT OF UNITED STATES PATENT NO. 6,587,403**

8. On July 1, 2003, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,587,403 [“the ‘403 patent”], entitled “Music Jukebox.” A true and correct copy of the ‘403 patent is attached as Exhibit A.

9. AAD owns the ‘403 patent by assignment from the inventors.

10. KYOCERA has infringed at least claim 1 of the ‘403 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the HydroElite digital audio player, that embody at least this claim of the ‘403 patent.

11. KYOCERA, having actual knowledge of the ‘403 patent and its application to KYOCERA’s products since at least August 2, 2012, has actively and intentionally induced infringement of the ‘403 patent by others by advertising infringing uses and instructing purchasers, in instruction manuals, how to engage in infringing uses.

12. KYOCERA’s infringement of the ‘403 patent has caused damage to AAD in the form of lost royalty payments.

13. KYOCERA had actual knowledge of the '403 patent since at least August 2, 2012, yet continued its infringing conduct notwithstanding that knowledge. Accordingly, KYOCERA's infringement has been willful and deliberate.

**COUNT II—INFRINGEMENT OF UNITED STATES PATENT NO. 7,289,393**

14. On October 30, 2007, the United States Patent and Trademark Office duly and legally issued United States Patent No. 7,289,393 [“the '393 patent], entitled “Music Jukebox.” A true and correct copy of the '393 patent is attached as Exhibit B.

15. AAD owns the '393 patent by assignment from the inventors.

16. KYOCERA has infringed at least claims 1, 30, 59, 77, 82, and 85 of the '393 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the HydroElite digital audio player, that embody at least these claims of the '393 patent.

17. KYOCERA, having actual knowledge of the '393 patent and its application to KYOCERA's products since at least August 2, 2012, has actively and intentionally induced infringement of the '393 patent by others by advertising infringing uses and instructing purchasers, in instruction manuals, how to engage in infringing uses.

18. KYOCERA's infringement of the '393 patent has caused damage to AAD in the form of lost royalty payments.

19. KYOCERA had actual knowledge of the '393 patent since at least August 2, 2012, yet continued its infringing conduct notwithstanding that knowledge. Accordingly, KYOCERA's infringement has been willful and deliberate.

**COUNT III—INFRINGEMENT OF UNITED STATES PATENT NO. 7,817,502**

20. On October 19, 2010, the United States Patent and Trademark Office duly and

legally issued United States Patent No. 7,817,502 [“the ‘502 patent”], entitled “Method of Using a Personal Digital Stereo Player.” A true and correct copy of the ‘502 patent is attached as Exhibit C.

21. AAD owns the ‘502 patent by assignment from the inventors.

22. KYOCERA has infringed at least claim 1 of the ‘502 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the HydroElite digital audio player, that embody at least this claim of the ‘502 patent.

23. KYOCERA, having actual knowledge of the ‘502 patent and its application to KYOCERA’s products since at least August 2, 2012, has actively and intentionally induced infringement of the ‘502 patent by others by advertising infringing uses and instructing purchasers, in instruction manuals, how to engage in infringing uses.

24. KYOCERA’s infringement of the ‘502 patent has caused damage to AAD in the form of lost royalty payments.

25. KYOCERA had actual knowledge of the ‘502 patent since at least August 2, 2012, yet continued its infringing conduct notwithstanding that knowledge. Accordingly, KYOCERA’s infringement has been willful and deliberate.

#### **COUNT IV—INFRINGEMENT OF UNITED STATES PATENT NO. 7,933,171**

26. On April 26, 2011, the United States Patent and Trademark Office duly and legally issued United States Patent No. 7,933,171 [“the ‘171 patent], entitled “Personal Digital Stereo Player.” A true and correct copy of the ‘171 patent is attached as Exhibit D.

27. AAD owns the ‘171 patent by assignment from the inventors.

28. KYOCERA has infringed at least claim 1 of the ‘171 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at

least the HydroElite digital audio player, that embody at least this claim of the '171 patent.

29. KYOCERA, having actual knowledge of the '171 patent and its application to KYOCERA's products since at least August 2, 2012, has actively and intentionally induced infringement of the '171 patent by others by advertising infringing uses and instructing purchasers, in instruction manuals, how to engage in infringing uses.

30. KYOCERA's infringement of the '171 patent has caused damage to AAD in the form of lost royalty payments.

31. KYOCERA had actual knowledge of the '171 patent since at least August 2, 2012, yet continued its infringing conduct notwithstanding that knowledge. Accordingly, KYOCERA's infringement has been willful and deliberate.

#### **COUNT V—INFRINGEMENT OF UNITED STATES PATENT NO. 8,400,888**

32. On March 19, 2013, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,400,888 ["the '888 patent"], entitled "Personal Digital Stereo Player Having Controllable Touch Screen." A true and correct copy of the '888 patent is attached as Exhibit E.

33. AAD owns the '888 patent by assignment from the inventors.

34. KYOCERA has infringed at least claim 1 of the '888 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the HydroElite digital audio player, that embody at least claim 1 of the '888 patent.

35. KYOCERA, having actual knowledge of the '888 patent and its application to KYOCERA's products since at least October 22, 2013, has actively and intentionally induced infringement of the '888 patent by others by advertising infringing uses and instructing purchasers, in instruction manuals, how to engage in infringing uses.

36. KYOCERA's infringement of the '888 patent has caused damage to AAD in the form of lost royalty payments.

WHEREFORE, Advanced Audio Devices, LLC prays that this Court enter judgment in AAD's favor and against KYOCERA COMMUNICATIONS, INC., and to award:

- A. Damages adequate to compensate AAD for the infringement that has occurred, in the amount of a reasonable royalty;
- B. Prejudgment interest from the dates KYOCERA received notice of its infringement of the patents-in-suit;
- C. All costs of this action;
- D. Increased damages under 35 U.S.C. § 284;
- E. Attorneys' fees under 35 U.S.C. § 285;
- F. A permanent injunction prohibiting further infringement of the patents-in-suit; and
- G. Such other and further relief as this Court may deem proper.

**JURY DEMAND**

AAD requests a trial by jury on all issues triable by jury.

Respectfully submitted,  
ADVANCED AUDIO DEVICES, LLC

Date: April 30, 2014

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**INDEX OF EXHIBITS**

- A. U. S. Patent No. 6,587,403
- B. U. S. Patent No. 7,289,393
- C. U. S. Patent No. 7,817,502
- D. U. S. Patent No. 7,933,171
- E. U.S. Patent No. 8,400,888

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