

FILED

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

2015 FEB 20 P 4:09

AUDIO MPEG, INC.,
U.S. PHILIPS CORPORATION,
ORANGE SA,
TDF SAS, and
INSTITUT FÜR RUNDFUNKTECHNIK GMBH

Plaintiffs,

v.

HEWLETT-PACKARD COMPANY

Defendant.

Civil Action No.:

2:15-cv-00073
(HCM)

COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL

Complaint for Patent Infringement

1. Plaintiffs Audio MPEG, Inc., U.S. Philips Corporation, Orange SA, TDF SAS (formerly Telediffusion de France), and Institut für Rundfunktechnik GmbH, by counsel and pursuant to Federal Rule of Civil Procedure 8(a), allege the following in support of their Complaint against Hewlett-Packard Co. for patent infringement:

Nature of the Action

2. This is a civil action for infringement of a patent arising under the laws of the United States relating to patents, including 35 U.S.C. § 281.

Subject Matter Jurisdiction

3. This civil action arises under the patent laws of the United States, Title 35 U.S.C. §§ 1, *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

Parties

4. Plaintiff Audio MPEG, Inc. (“Audio MPEG”) is a corporation organized under the laws of Virginia having its headquarters and its sole U.S. place of business at 66 Canal Center Plaza, Suite 750, Alexandria, Virginia 22314.

5. Plaintiff U.S. Philips Corporation (“Philips”) is a corporation organized under the laws of Delaware with its principal place of business at 3000 Minuteman Road, M/S 1203, Andover, MA 01810.

6. Plaintiff Orange SA (“Orange”) is a corporation organized under the laws of France having an address at 78, rue Olivier de Serres, Paris 75015, France.

7. Plaintiff TDF SAS (“TDF”) is a corporation organized under the laws of France having an address at 106 Avenue Marx Dormoy, 92120 Montrouge, France.

8. Plaintiff Institut für Rundfunktechnik GmbH (“IRT”) is a corporation organized under the laws of Germany having an address at Floriansmuehlstrasse 60, D-80939 Munich, Germany.

9. On information and belief, Defendant Hewlett-Packard Co. (“HP”) is a corporation organized and existing under the laws of Delaware, with its principal place of business located at 3000 Hanover Street, Palo Alto, California 94304.

Personal Jurisdiction and Venue

10. Defendant has made, used, sold, offered for sale, and/or imported into the United States products that include capabilities required by the ISO/IEC 11172-3 and/or 13818-3 standards (“the MPEG standards”).

11. Upon information and belief, Defendant regularly transacts business in this judicial district and division by offering products and services to customers, business affiliates and/or partners located in this judicial district and division. In addition, Defendant has committed

acts of infringement of one or more claims of the patents-in-suit in this judicial district and division.

12. Upon information and belief, Defendant voluntarily placed products including capabilities required by the MPEG standards into the stream of United States commerce, conscious that Virginia, including this judicial district, was the likely destination of a substantial quantity of such devices.

13. Upon information and belief, a substantial part of the events giving rise to these claims for patent infringement occurred in Virginia and in this judicial district.

14. Upon information and belief, Defendant is subject to personal jurisdiction in this district because it purposefully engaged in activities that gave rise to these claims for patent infringement and which were directed at residents of Virginia and this judicial district.

15. Defendant is a corporation and resides in this district for purposes of 28 U.S.C. §§ 1391(c) and 1400(b).

16. Venue for this civil action in this judicial district is proper under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because Defendant is subject to personal jurisdiction in this judicial district and the infringing activity has occurred in this judicial district.

Background

17. Audio MPEG has the exclusive rights to license and to sue for and collect fees, costs, and damages, including past damages for past infringement of U.S. patents owned by Philips, Orange, TDF, and IRT covering essential elements of the ISO/IEC 11172-3 and 13818-3 MPEG standards directed to MPEG Audio Layers I, II, and III technology. The world-class research laboratories of the patent owners developed technology that forms the backbone of the MPEG Audio standard, which is essential to the existence of MP2 and/or MP3 players and crucial to the operation of many other consumer electronics devices including televisions set top

boxes, digital televisions, and other products with MP2 and/or MP3 capabilities, such as DVD players, car radios, Home Theatres, Hi-Fi systems, and mobile phones or multimedia devices. MPEG Audio compression technology allows audio files (*e.g.*, music) to be compressed and stored in much less space than was possible before, allowing thousands of recorded songs to be stored conveniently in a portable box smaller than the size of a deck of cards rather than on hundreds of compact disks (“CD”) that would be impossible to carry. In addition, MPEG Audio compression contributes to spectrum savings and communication channel economy in telecommunication and broadcast systems. The International Standards Organization (ISO) adopted this compression technology as a mandatory part of the ISO/IEC standard. As a result, products using MPEG Audio compression necessarily follow the standard and use this technology. Accordingly, all products implementing the ISO/IEC 11172-3 and 13818-3 capabilities, such as those identified above, and products using MPEG Audio compression, need a patent license from Audio MPEG.

First Count
(Patent Infringement)
35 U.S.C. §§ 271 and 281

18. On June 21, 1994, United States Patent No. 5,323,396 (“the ’396 patent”) for a “Digital Transmission System, Transmitter and Receiver for use in the Transmission System” was duly and legally issued to Gerardus C. P. Lokhoff. A true and correct copy of the ’396 patent is attached hereto as Exhibit A.

19. Plaintiffs Philips, Orange, TDF, and IRT own the ’396 patent.

20. Plaintiff Audio MPEG has the exclusive right to license the ’396 patent and to sue for and collect fees, costs, and damages, including past damages for past infringement of the ’396 patent.

21. The ’396 patent generally relates to encoding and decoding digital audio signals.

22. Defendant has directly infringed one or more of the claims of the '396 patent by manufacturing, using, selling, importing, and/or offering for sale HP products that include capabilities required by the MPEG standards, including but not limited to HP computers and electronic devices, containing HP Quickplay, HP MediaSmart, HP Connected Music, Muvee AutoProducer Basic Edition 6.x, Roxio Creator, Cyberlink PowerDVD, Cyberlink PowerDirector, Cyberlink DVD Suite (including Cyberlink Power2Go and PowerDVD), or Corel Video Studio Pro.

23. Defendant also indirectly infringed the '396 patent by inducing infringement by others, such as original equipment manufacturers (OEMs), manufacturers, importers, resellers, customers, and/or end users, in violation of 35 U.S.C. § 271(b). No later than September 17, 2008, Audio MPEG notified HP that all HP products incorporating the MPEG Audio encoding and decoding capabilities required by at least one of the MPEG standards are covered by the '396 patent. Despite having knowledge of such infringement, HP continued to instruct and/or encourage OEMs, manufacturers, importers, resellers, customers, and/or end user customers to manufacture, offer for sale, sell, import, and/or use HP products incorporating capabilities required by at least one of the MPEG standards, which include but are not limited to HP computers and electronic devices containing HP Quickplay, HP MediaSmart, HP Connected Music, Muvee AutoProducer Basic Edition 6.x, Roxio Creator, Cyberlink PowerDVD, Cyberlink PowerDirector, Cyberlink DVD Suite (including Cyberlink Power2Go and PowerDVD), or Corel Video Studio Pro. On information and belief, HP has intentionally taken these actions knowing that its acts caused infringement of the patent and specifically intending infringement of the '396 patent. These acts include, but are not limited to, HP's offers to sell and sales of HP's infringing products in the United States, as well as HP's promotions on its websites and

marketing materials for HP's infringing products and their MPEG Audio, MP2, or MP3 capabilities. For example, HP advertised HP TouchSmart 610-1015xt with HP's Mediasmart and Cyberlink's DVD Suite and promoted using their MPEG Audio and MP3 capabilities. *See, e.g.*, Exhibit D at 3 (showing "MediaSmart supports MP3 format for music playback. To listen to MP3 files on a CD or from your Public Music folder on your hard drive . . ."); Exhibit E at 37 ("HP MediaSmart and TouchSmart (select models only) turn the computer into a mobile entertainment center."), 63 ("[U]se software such as . . . CyberLink Power2Go to burn data, video, and audio files, including MP3 and WAV music files."); Exhibit F at 19 ("HP TouchSmart Music supports the following music file formats: .mp3 .wma .wav .aac .m4p .m4a").

24. Defendant also indirectly infringed the '396 patent by contributing to the infringement by others, such as OEMs, manufacturers, importers, resellers, customers, and/or end users, in violation of 35 U.S.C. § 271(c). No later than September 17, 2008, Audio MPEG notified Defendant of Defendant's infringing activity. *See supra*. Defendant has contributed to direct infringement of the patent by supplying an important component of the infringing products to others in the United States. Specifically, Defendant supplied, sold, and/or offered to sell in the United States components providing the capabilities required by the MPEG standards, including but not limited to software such as HP Quickplay, HP MediaSmart, HP Connected Music, Muvee AutoProducer Basic Edition 6.x, Roxio Creator, Cyberlink PowerDVD, Cyberlink PowerDirector, Cyberlink DVD Suite (including Cyberlink Power2Go and PowerDVD), and Corel Video Studio Pro, for use with computers and electronic devices, including but not limited to HP computers and electronic devices. The components providing the capabilities required by the MPEG standards are not common components suitable for substantial non-infringing use. Upon information and belief, Defendant supplied the components with knowledge of the patent

and knowledge that the components were specially made or adapted for use in an infringing manner and that others directly infringed the patent in the United States.

25. Defendant had actual knowledge of the '396 patent and has willfully committed said infringing activities. No later than September 17, 2008, Audio MPEG notified Defendant of Defendant's infringing activity. *See supra*. With actual knowledge, Defendant continued to manufacture, use, sell, import, and/or offer for sale products that include capabilities required by the MPEG standards. Defendant did so despite an objectively high likelihood that it was infringing the '396 patent. Furthermore, the risk of infringement was obvious such that, even if Defendant did not know of the risk of infringement, it should have known of the risk.

26. As a consequence of the infringing activities by Defendant, Plaintiff Audio MPEG has been damaged in an amount not yet determined.

Second Count
(Patent Infringement)
35 U.S.C. §§ 271 and 281

27. On July 7, 1998, United States Patent No. 5,777,992 ("the '992 patent") for a "Decoder for Decoding an Encoded Digital Signal and a Receiver Comprising the Decoder" was duly and legally issued to Gerardus C. P. Lokhoff. A true and correct copy of the '992 patent is attached hereto as Exhibit B.

28. Plaintiffs Philips, Orange, TDF, and IRT own the '992 patent.

29. Plaintiff Audio MPEG has the exclusive right to license the '992 patent and to sue for and collect fees, costs, and damages, including past damages for past infringement of the '992 patent.

30. The '992 patent generally relates to decoding digital audio signals.

31. Defendant has directly infringed one or more of the claims of the '992 patent by manufacturing, using, selling, importing, and/or offering for sale HP products that include

capabilities required by the MPEG standards, including but not limited to HP computers and electronic devices, containing HP Quickplay, HP MediaSmart, HP Connected Music, Muvee AutoProducer Basic Edition 6.x, Roxio Creator, Cyberlink PowerDVD, Cyberlink PowerDirector, Cyberlink DVD Suite (including Cyberlink Power2Go and PowerDVD), or Corel Video Studio Pro.

32. Defendant also indirectly infringed the '992 patent by inducing infringement by others, such as OEMs, manufacturers, importers, resellers, customers, and/or end users, in violation of 35 U.S.C. § 271(b). No later than September 17, 2008, Audio MPEG notified HP that all HP products incorporating the MPEG Audio encoding and decoding capabilities required by at least one of the MPEG standards are covered by the '992 patent. Despite having knowledge of such infringement, HP continued to instruct and/or encourage OEMs, manufacturers, importers, resellers, customers, and/or end user customers to manufacture, offer for sale, sell, import, and/or use HP products incorporating capabilities required by at least one of the MPEG standards, which include but are not limited to HP computers and electronic devices containing HP Quickplay, HP MediaSmart, HP Connected Music, Muvee AutoProducer Basic Edition 6.x, Roxio Creator, Cyberlink PowerDVD, Cyberlink PowerDirector, Cyberlink DVD Suite (including Cyberlink Power2Go and PowerDVD), or Corel Video Studio Pro. On information and belief, HP has intentionally taken these actions knowing that its acts caused infringement of the patent and specifically intending infringement of the '992 patent. These acts include, but are not limited to, HP's offers to sell and sales of HP's infringing products in the United States, as well as HP's promotions on its websites and marketing materials for HP's infringing products and their MPEG Audio, MP2, or MP3 capabilities. For example, HP advertised HP TouchSmart 610-1015xt with HP's Mediasmart and Cyberlink's DVD Suite and promoted using their MPEG

Audio and MP3 capabilities. *See, e.g.*, Exhibit D at 3 (showing “MediaSmart supports MP3 format for music playback. To listen to MP3 files on a CD or from your Public Music folder on your hard drive . . .”); Exhibit E at 37 (“HP MediaSmart and TouchSmart (select models only) turn the computer into a mobile entertainment center.”), 63 (“[U]se software such as . . . CyberLink Power2Go to burn data, video, and audio files, including MP3 and WAV music files.”); Exhibit F at 19 (“HP TouchSmart Music supports the following music file formats: .mp3 .wma .wav .aac .m4p .m4a”).

33. Defendant also indirectly infringed the '992 patent by contributing to the infringement by others, such as OEMs, manufacturers, importers, resellers, customers, and/or end users, in violation of 35 U.S.C. § 271(c). No later than September 17, 2008, Audio MPEG notified Defendant of Defendant's infringing activity. *See supra*. Defendant has contributed to direct infringement of the patent by supplying an important component of the infringing products to others in the United States. Specifically, Defendant supplied, sold, and/or offered to sell in the United States components providing the capabilities required by the MPEG standards, including but not limited to software such as HP Quickplay, HP MediaSmart, HP Connected Music, Muvee AutoProducer Basic Edition 6.x, Roxio Creator, Cyberlink PowerDVD, Cyberlink PowerDirector, Cyberlink DVD Suite (including Cyberlink Power2Go and PowerDVD), and Corel Video Studio Pro, for use with computers and electronic devices, including but not limited to HP computers and electronic devices. The components providing the capabilities required by the MPEG standards are not common components suitable for substantial non-infringing use. Upon information and belief, Defendant supplied the components with knowledge of the patent and knowledge that the components were specially made or adapted for use in an infringing manner and that others directly infringed the patent in the United States.

34. Defendant had actual knowledge of the '992 patent and has willfully committed said infringing activities. No later than September 17, 2008, Audio MPEG notified Defendant of Defendant's infringing activity. *See supra*. With actual knowledge, Defendant continued to manufacture, use, sell, import, and/or offer for sale products that include capabilities required by the MPEG standards. Defendant did so despite an objectively high likelihood that it was infringing the '992 patent. Furthermore, the risk of infringement was obvious such that, even if Defendant did not know of the risk of infringement, it should have known of the risk.

35. As a consequence of the infringing activities by Defendant complained of herein, Plaintiff Audio MPEG has been damaged in an amount not yet determined.

Third Count
(Patent Infringement)
35 U.S.C. §§ 271 and 281

36. On July 23, 1996, United States Patent No. 5,539,829 ("the '829 patent") for a "Subband Coded Digital Transmission System Using Some Composite Signals" was duly and legally issued to Gerardus C. P. Lokhoff, Yves-Francois Dehery, Gerhard J. Stoll, and Günther Theile. A true and correct copy of the '829 patent is attached hereto as Exhibit C.

37. Plaintiffs Philips, Orange, TDF, and IRT own the '829 patent.

38. Plaintiff Audio MPEG has the exclusive right to license the '829 patent and to sue for and collect fees, costs, and damages, including past damages for past infringement of the '829 patent.

39. The '829 patent generally relates to encoding and decoding digital audio signals.

40. Defendant has directly infringed one or more of the claims of the '829 patent by manufacturing, using, selling, importing, and/or offering for sale HP products that include capabilities required by the MPEG standards, including but not limited to HP computers and electronic devices, containing HP Quickplay, HP MediaSmart, HP Connected Music, Muvee

AutoProducer Basic Edition 6.x, Roxio Creator, Cyberlink PowerDVD, Cyberlink PowerDirector, Cyberlink DVD Suite (including Cyberlink Power2Go and PowerDVD), or Corel Video Studio Pro.

41. Defendant also indirectly infringed the '829 patent by inducing infringement by others, such as OEMs, manufacturers, importers, resellers, customers, and/or end users, in violation of 35 U.S.C. § 271(b). No later than September 17, 2008, Audio MPEG notified HP that all HP products incorporating the MPEG Audio encoding and decoding capabilities required by at least one of the MPEG standards are covered by the '829 patent. Despite having knowledge of such infringement, HP continued to instruct and/or encourage OEMs, manufacturers, importers, resellers, customers, and/or end user customers to manufacture, offer for sale, sell, import, and/or use HP products incorporating capabilities required by at least one of the MPEG standards, which include but are not limited to HP computers and electronic devices containing HP Quickplay, HP MediaSmart, HP Connected Music, Muvee AutoProducer Basic Edition 6.x, Roxio Creator, Cyberlink PowerDVD, Cyberlink PowerDirector, Cyberlink DVD Suite (including Cyberlink Power2Go and PowerDVD), or Corel Video Studio Pro. On information and belief, HP has intentionally taken these actions knowing that its acts caused infringement of the patent and specifically intending infringement of the '829 patent. These acts include, but are not limited to, HP's offers to sell and sales of HP's infringing products in the United States, as well as HP's promotions on its websites and marketing materials for HP's infringing products and their MPEG Audio, MP2, or MP3 capabilities. For example, HP advertised HP TouchSmart 610-1015xt with HP's Mediasmart and Cyberlink's DVD Suite and promoted using their MPEG Audio and MP3 capabilities. *See, e.g.*, Exhibit D at 3 (showing "MediaSmart supports MP3 format for music playback. To listen to MP3 files on a CD or from your Public Music folder on

your hard drive . . .”); Exhibit E at 37 (“HP MediaSmart and TouchSmart (select models only) turn the computer into a mobile entertainment center.”), 63 (“[U]se software such as . . . CyberLink Power2Go to burn data, video, and audio files, including MP3 and WAV music files.”); Exhibit F at 19 (“HP TouchSmart Music supports the following music file formats: .mp3 .wma .wav .aac .m4p .m4a”).

42. Defendant also indirectly infringed the ’829 patent by contributing to the infringement by others, such as OEMs, manufacturers, importers, resellers, customers, and/or end users, in violation of 35 U.S.C. § 271(c). No later than September 17, 2008, Audio MPEG notified Defendant of Defendant’s infringing activity. *See supra*. Defendant has contributed to direct infringement of the patent by supplying an important component of the infringing products to others in the United States. Specifically, Defendant supplied, sold, and/or offered to sell in the United States components providing the capabilities required by the MPEG standards, including but not limited to software such as HP Quickplay, HP MediaSmart, HP Connected Music, Muvee AutoProducer Basic Edition 6.x, Roxio Creator, Cyberlink PowerDVD, Cyberlink PowerDirector, Cyberlink DVD Suite (including Cyberlink Power2Go and PowerDVD), and Corel Video Studio Pro, for use with computers and electronic devices, including but not limited to HP computers and electronic devices. The components providing the capabilities required by the MPEG standards are not common components suitable for substantial non-infringing use. Upon information and belief, Defendant supplied the components with knowledge of the patent and knowledge that the components were specially made or adapted for use in an infringing manner and that others directly infringed the patent in the United States.

43. Defendant had actual knowledge of the ’829 patent and has willfully committed said infringing activities. No later than September 17, 2008, Audio MPEG notified Defendant of

Defendant's infringing activity. *See supra*. With actual knowledge, Defendant continued to manufacture, use, sell, import, and/or offer for sale products that include capabilities required by the MPEG standards. Defendant did so despite an objectively high likelihood that it was infringing the '829 patent. Furthermore, the risk of infringement was obvious such that, even if Defendant did not know of the risk of infringement, it should have known of the risk.

44. As a consequence of the infringing activities by Defendant complained of herein, Plaintiff Audio MPEG has been damaged in an amount not yet determined.

Requested Relief

WHEREFORE Plaintiffs pray for judgment against Defendant as follows:

A. Declare that Defendant has infringed, actively induced infringement, and/or committed acts of contributory infringement with respect to the claims of the '396 patent, the '992 patent, and/or the '829 patent.

B. Declare that Defendant's infringement of the '396 patent, the '992 patent, and/or the '829 patent was deliberate and/or willful.

C. Order Defendant to account for and pay to Plaintiffs all damages caused to Plaintiffs by reason of infringement of the '396 patent, the '992 patent, and/or the '829 patent, and order that such damages attributable to willful infringement be trebled by reason of the deliberate and willful infringement of the '396 patent, the '992 patent, and/or the '829 patent pursuant to 35 U.S.C. § 284.

D. Grant Plaintiffs prejudgment and post judgment interest on the damages caused to them by reason of Defendant's infringement of the '396 patent, '992 patent, and/or the '829 patent.

E. Grant Plaintiffs' reasonable attorney's fees pursuant to 35 U.S.C. § 285.

F. Grant Plaintiffs such other and further relief as the case may require and the Court may deem just and proper, together with costs in this action.

Demand for Jury Trial

Plaintiffs hereby respectfully requests trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure of all issues in this action so triable.

DATED: February 20, 2015

Respectfully submitted,



Frank A. DeCosta, III (*pro hac vice* to be requested)
John Paul (*pro hac vice* to be requested)
John Williamson (*pro hac vice* to be requested)
Kenie Ho (*pro hac vice* to be requested)
Cecilia Sanabria, VSB #78917
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