

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DIGITAL STREAM IP, LLC,)	
)	
Plaintiff,)	
)	Civil Action No. _____
v.)	
)	JURY TRIAL DEMANDED
MERCEDES-BENZ USA, LLC,)	
)	
Defendant.)	
_____)	

COMPLAINT

For its Complaint, Plaintiff Digital Stream IP, LLC ("Digital Stream"), by and through the undersigned counsel, alleges as follows:

THE PARTIES

1. Digital Stream is a Texas limited liability company with a place of business located at 1400 Preston Road, Suite 475, Plano, Texas 75093.
2. Defendant Mercedes-Benz USA, LLC is a Delaware company with, upon information and belief, a place of business located at 1 Mercedes Drive, Montvale, New Jersey 07645.
3. Upon information and belief, Defendant has registered with the Texas Secretary of State to conduct business in Texas.

JURISDICTION AND VENUE

4. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*
5. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.
6. Upon information and belief, Defendant conducts substantial business in this

forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

7. Venue is proper in this district pursuant to §§ 1391(b), (c) and 1400(b).

THE PATENT-IN-SUIT

8. On June 14, 2011, U.S. Patent No. 7,962,090 (the "'090 patent"), entitled "Method and Apparatus for Satellite Digital Audio," was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '090 patent is attached hereto as Exhibit A.

9. The '090 patent solves problems of providing digital audio and display of corresponding program information associated with a digital music service. It ensures that a listener will continue to enjoy the advantages of digital audio, while also enabling portable reception of the service within a localized setting.

10. The claims of the '090 patent effect an improvement in digital audio receivers and the digital audio technical field to solve the problems of limited range, signal strength, variety of channels, program information available and overall accessibility and ease of use. The '090 patent overcame these difficulties by, for example, utilizing a wireless digital audio receiver or wireless digital audio player including a user interface to enable a user to select digital audio data from a plurality of digital audio data within carrier waves, a tuner to tune to a frequency associated with the digital audio data, a demodulator to demodulate or extract the digital audio data and the program information from the carrier wave, and a digital to analog converter the digital audio data into an analog signal for playback by the user.

11. On September 11, 2012, U.S. Patent No. 8,265,545 (the "'545 patent"), entitled

"Wireless Environment Method and Apparatus," was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '545 patent is attached hereto as Exhibit B.

12. The '545 patent also solves problems of providing digital audio and display of corresponding program information associated with a digital music service. It ensures that a listener will continue to enjoy the advantages of digital audio, while also enabling portable reception of the service within a localized setting.

13. The claims of the '545 patent effect an improvement in digital audio players and the digital audio technical field to solve the problems of limited range, signal strength, variety of channels, program information available and overall accessibility and ease of use. The '545 patent overcame these difficulties by, for example, utilizing a wireless digital audio player including a user interface to enable a user to select digital audio data from a plurality of digital audio programs, a tuner to tune to a radio frequency signal associated with the digital audio program, a demodulator to receive from the tuner and to demodulate the radio frequency signal that carries digital audio data and program information corresponding to the digital audio program, a processor coupled to the user interface for separating the program information from the digital audio data and a digital to analog converter to convert the audio data corresponding to the digital audio program into an analog signal for playback by the user.

14. On June 29, 2004, U.S. Patent No. 6,757,913 (the "'913 patent), entitled "Wireless Music and Data Transceiver System," was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '913 patent is attached hereto as Exhibit C.

15. The '913 patent solves problems of providing digital audio and display of corresponding program information associated with a digital music service. It ensures that a listener will continue to enjoy the advantages of digital audio, while also enabling portable

reception of the service within a localized setting.

16. The claims of the '913 patent effect an improvement in digital audio transceivers, digital audio players, digital music transmitters and the digital audio technical field to solve the problems of limited range, signal strength, variety of channels, program information available and overall accessibility and ease of use. The '913 patent overcame these difficulties by, for example, utilizing a wireless digital audio transceiver or wireless digital audio player including a user interface to enable a user to select digital audio data or a digital audio program from a plurality of digital audio data or programs, a tuner to tune to a frequency associated with a carrier wave containing the digital audio data or a frequency associated with the digital audio program, a demodulator to extract or demodulate the digital audio data and program information, and a digital to analog converter to convert the digital audio data into an analog signal for playback by the user.

17. Digital Stream is the assignee and owner of the right, title and interest in and to the '090, '545 and '913 patents, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,962,090

18. Digital Stream repeats and realleges the allegations of paragraphs 1 through 17 as if fully set forth herein.

19. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant is liable for infringement of at least claim 1 of the '090 patent by making, using, importing, offering for sale, and/or selling a wireless digital audio receiver for receiving one or more carrier waves containing digital audio data and audio program information, including, but not limited to, the wireless digital audio receiver in certain vehicles, including, but not limited to, C-Class, CL-

Class, CLA-Class, CLS-Class, E-Coupe/Cab, E-Sedan/Wagon, G-Class, GL-Class, GLK-Class, M-Class, S-Class, SL-Class and SLK-Class.

20. More specifically and upon information and belief, Defendant's wireless digital audio receiver receives one or more carrier waves combining digital audio data and audio program information. *See* 2016 C-Class Brochure ("Brochure") (available at https://www.mbusa.com/vcm/MB/DigitalAssets/pdfmb/brochures/MY16_C_Sedan.pdf (last accessed Aug. 30, 2016)); COMAND Operating Instructions ("COMAND") at p. 144 (available at http://www.mbusa.com/vcm/MB/DigitalAssets/pdfmb/comandmanual/2016/MY16_C_Sedan_COMAND.pdf (last accessed Aug. 30, 2016)); <https://www.mbusa.com/mercedes/owners/videos/detail/videoId-4f2eafef3e193410VgnVCM1000007c184335RCRD> ("Video") (last accessed Aug. 30, 2016). The wireless digital audio receiver includes a user interface to enable a user to select digital audio data from a plurality of digital audio data within the carrier waves. *See* COMAND at pp. 144-45. It includes a tuner operably coupled to the user interface to tune to a frequency associated with a carrier wave containing the selected digital audio data. *See id.*; Video. The wireless digital audio receiver includes a demodulator coupled to the tuner to extract the selected digital audio data and the audio program information from the carrier wave. *See* Attachment A, FM-6 Satellite Technical Description, Robert D. Briskman (Apr. 9, 2010) at pp. 7-8, 11, available at http://licensing.fcc.gov/myibfs/download.do?attachment_key=810002 (last accessed Aug. 30, 2016); COMAND at p. 148. It also includes a digital to analog converter to convert the selected digital audio data into an analog signal for playback by the user. *See* COMAND at pp. 144, 176.

21. Digital Stream is entitled to recover from Defendant the damages sustained by Digital Stream as a result of Defendant's infringement of the '090 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 8,265,545

22. Digital Stream repeats and realleges the allegations of paragraphs 1 through 21 as if fully set forth herein.

23. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant is liable for infringement of at least claim 1 of the '545 patent by making, using, importing, offering for sale, and/or selling a wireless digital audio player for operation by a user, including, but not limited to, the wireless digital audio player in certain vehicles, including, but not limited to, C-Class, CL-Class, CLA-Class, CLS-Class, E-Coupe/Cab, E-Sedan/Wagon, G-Class, GL-Class, GLK-Class, M-Class, S-Class, SL-Class and SLK-Class.

24. More specifically and upon information and belief, Defendant's wireless digital audio player is a wireless digital audio player for operation by a user. *See* Brochure; COMAND at p. 144; Video. It includes a user interface for the user to select a digital audio program from the plurality of digital audio programs. *See* COMAND at pp. 144-45. Defendant's wireless digital audio player includes a tuner to tune to a radio frequency signal associated with the selected digital audio program. *See id.*; Video. It includes a demodulator to receive from the tuner a radio frequency signal and to demodulate the radio frequency signal, wherein the radio frequency signal carries digital audio data and program information corresponding to the selected digital audio program. *See* Attachment A, FM-6 Satellite Technical Description, Robert D. Briskman (Apr. 9, 2010) at pp. 7-8, 11, available at

http://licensing.fcc.gov/myibfs/download.do?attachment_key=810002 (last accessed Aug. 30, 2016). Upon information and belief, Defendant's wireless digital audio player includes a processor coupled to the user interface for separating the program information from the digital audio data. *Id.* at p. 11. It also includes a digital to analog converter to convert the audio data corresponding to the selected digital audio program into an analog signal for playback by the user. *See* COMAND at pp. 144, 176.

25. Digital Stream is entitled to recover from Defendant the damages sustained by Digital Stream as a result of Defendant's infringement of the '545 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 6,757,913

26. Digital Stream repeats and realleges the allegations of paragraphs 1 through 25 as if fully set forth herein.

27. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant is liable for infringement of at least claim 20 of the '913 patent by making, using, importing, offering for sale, and/or selling a wireless digital audio player for operation in a local environment, including, but not limited to, the wireless digital audio player in certain vehicles, including, but not limited to, C-Class, CL-Class, CLA-Class, CLS-Class, E-Coupe/Cab, E-Sedan/Wagon, G-Class, GL-Class, GLK-Class, M-Class, S-Class, SL-Class and SLK-Class.

28. More specifically and upon information and belief, Defendant's wireless digital audio player is a wireless digital audio player for operation in a local environment. *See* Brochure; COMAND at p. 144; Video. It includes a user interface to provide selection of a digital audio program from a plurality of digital audio programs. *See* COMAND at pp. 144-45.

Defendant's wireless digital audio player includes a tuner to tune to a radio frequency signal associated with the selected digital audio program. *See id.*; Video. It includes a demodulator to receive from the tuner a radio frequency signal and to demodulate the radio frequency signal, wherein the radio frequency signal carries digital audio data and program information corresponding to the selected digital audio program. *See* Attachment A, FM-6 Satellite Technical Description, Robert D. Briskman (Apr. 9, 2010) at pp. 7-8, 11, available at http://licensing.fcc.gov/myibfs/download.do?attachment_key=810002 (last accessed Aug. 30, 2016). Upon information and belief, Defendant's wireless digital audio player includes a processor coupled to the user interface to demultiplex the digital audio data in response to the selected digital audio program to separate program information from audio data. *Id.* at p. 11. It also includes a digital to analog converter to convert the audio data corresponding to the selected digital audio program into an analog signal to an output for play-back to a user. *See* COMAND at pp. 144, 176.

29. Digital Stream is entitled to recover from Defendant the damages sustained by Digital Stream as a result of Defendant's infringement of the '913 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284

JURY DEMAND

Digital Stream hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Digital Stream requests that this Court enter judgment against Defendant as follows:

A. An adjudication that Defendant has infringed the '090, '545 and '913 patents;

B. An award of damages to be paid by Defendant adequate to compensate Digital Stream for Defendant's past infringement of the '090, '545 and '913 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. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Digital Stream's reasonable attorneys' fees; and

D. An award to Digital Stream of such further relief at law or in equity as the Court deems just and proper.

Dated: August 31, 2016

/s/ Richard C. Weinblatt
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