

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

DALLAS DIVISION

Targeted Radio LLC,

Plaintiff,

v.

Pandora Media, LLC,

Defendant.

Civil Action No. 3:19-cv-2299

PATENT CASE

Jury Trial Demanded

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Targeted Radio LLC (“Targeted Radio”) file this Original Complaint for patent infringement against Pandora Media, LLC, alleging as follows:

NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

THE PARTIES

2. Plaintiff Targeted Radio is a California limited liability company with a place of business at 4 Park Plaza, Suite 550, Irvine, CA 92614 and may be served through the undersigned counsel of record.

3. Defendant Pandora Media, LLC (“Pandora”) is a Delaware limited liability company with a physical presence within this District located at 1717 McKinney Avenue, Dallas, Texas 75202. Pandora, Inc. is registered to do business in Texas and may be served via its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § 101, *et seq.* This Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271, *et seq.*, 28 U.S.C. § 1331 (federal question jurisdiction), and § 1338 (jurisdiction over patent actions).

5. Pandora is subject to personal jurisdiction in this Court. In particular, this Court has personal jurisdiction over Pandora because Pandora has engaged in continuous, systematic, and substantial activities within this State, including substantial marketing and sales of products within this State and this District. Furthermore, upon information and belief, this Court has personal jurisdiction over Pandora because Pandora has committed acts giving rise to Targeted Radio's claims for patent infringement within and directed to this District.

6. Upon information and belief, Pandora has committed acts of infringement in this District and has one or more regular and established places of business within this District under the language of 28 U.S.C. § 1400(b). Thus, venue is proper in this District under 28 U.S.C. § 1400(b).

7. Pandora maintains a permanent physical presence within the Northern District of Texas, conducting business from at least its location at 1717 McKinney Avenue, Dallas, Texas 75202.

8. Upon information and belief, Pandora has conducted and does conduct substantial business in this forum, directly and/or through subsidiaries, agents, representatives, or intermediaries, such substantial business including but not limited to: (i) at least a portion of the infringements alleged herein; (ii) purposefully and voluntarily placing one or more infringing products into the stream of commerce with the expectation that they will be purchased by consumers in this forum; or (iii) regularly doing or soliciting business, engaging in other persistent

courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this judicial district. Thus, Pandora is subject to this Court's specific and general personal jurisdiction pursuant to due process and the Texas Long Arm Statute. Venue is proper in the Northern District of Texas pursuant to 28 U.S.C. §1391 and 28 U.S.C. § 1400(b).

THE PATENTS AT ISSUE

9. This cause of action asserts infringement of United States Patent Nos. 8,644,756, and 8,948,684 (collectively, the "Patents-in-Suit").

10. U.S. Patent No. 8,644,756 (the "'756 Patent"), entitled "Methods and Systems for Selecting Internet Radio Program Break Content Using Mobile Device Location," duly and legally issued on February 4, 2014, from U.S. Patent Application No. 13/901,824, filed on May 24, 2013, naming as inventors David D. Minter and Albert S. Baldocchi. A true and correct copy of the '756 Patent is attached hereto as **Exhibit A** and is incorporated by reference.

11. The '756 Patent is a continuation of U.S. Patent Application No. 13/901,824, filed on May 24, 2013, now Patent No. 8,559,866, which is a continuation of U.S. Patent Application No. 12/384,193, filed on April 1, 2009, now U.S. Patent No. 8,452,227.

12. The inventive aspects of the '756 Patent address technical problems related to a specific functionality of streaming content to a mobile device during an Internet radio program, for example, by specifying systems and methods for streaming localized content of a certain duration during a program break.

13. The claims of the '756 Patent recite more than well-understood, routine, and conventional activities previously known to the industry. For example, the claims of the '756 Patent describe improvements in how to stream localized program break content to a mobile device by detecting a marker indicating the start of a program break and streaming program break content

to the mobile device using a location reported from the mobile device and a program break duration indicator.

14. The claims of the '756 Patent do not preempt all ways of streaming localized content to a mobile device, nor any preempt any abstract idea, law of nature, or natural phenomena.

15. As such, the claims of the '756 Patent recite elements containing inventive aspects that are sufficient to transform an abstract idea into a patent-eligible invention.

16. The '756 Patent claims patent-eligible subject matter under 35 U.S.C. § 101.

17. Plaintiff Targeted Radio LLC is the assignee of an exclusive license to make, have made, use, offer, sell or import products and to practice methods claimed in the '756 Patent, including the right to grant sublicenses, to enforce the '756 Patent, to collect and receive damages for past, present and future infringement and to seek equitable relief or any other allowable remedy for infringement of the '756 Patent.

18. Targeted Radio has standing to sue for infringement of the '756 Patent.

19. U.S. Patent No. 8,948,684 (the "'684 Patent"), entitled "Methods and Systems for Selecting Internet Radio Program Break Content Using Mobile Device Location," duly and legally issued on February 3, 2015, from U.S. Patent Application No. 14/021,250, filed on September 9, 2013, now U.S. Patent No. 8,644,756, naming as inventors David D. Minter and Albert S. Baldocchi. A true and correct copy of the '684 Patent is attached hereto as **Exhibit B** and is incorporated by reference.

20. The '684 Patent is a continuation of U.S. Patent Application No. 14/021,250, filed on September 9, 2013, now U.S. Patent No. 8,644,756, which is a continuation of application No. 13/901,824, filed on May 24, 2013, now U.S. Patent No. 8,559,866, which is a continuation of

U.S. Patent Application No. 12/384,193, filed on April 1, 2009, now U.S. Patent No. 8,452,227, from provisional application no. 61/110,372, filed on October 31, 2008.

21. The inventive aspects of the '684 Patent address technical problems related to a specific functionality of streaming content to a mobile device during an Internet radio stream, for example, by specifying methods for streaming localized content of a certain duration during an advertising break.

22. The claims of the '684 Patent recite more than well-understood, routine, and conventional activities previously known to the industry. For example, the claims of the '684 Patent describe improvements in how to stream localized advertising break content to a mobile device by detecting a marker indicating the start of an advertising break and streaming advertising break content to the mobile device using at least one of recurring location reports resolved at the mobile device received from the mobile device and a duration indicator.

23. The claims of the '684 Patent do not preempt all ways of streaming localized content to a mobile device, nor any abstract idea, law of nature, or natural phenomena.

24. As such, the claims of the '684 Patent recite elements containing inventive aspects that are sufficient to transform an abstract idea into a patent-eligible invention.

25. The '684 Patent claims patent-eligible subject matter under 35 U.S.C. § 101.

26. Plaintiff Targeted Radio LLC is the assignee of an exclusive license to make, have made, use, offer, sell or import products and to practice methods claimed in the '684 Patent, including the right to grant sublicenses, to enforce the '684 Patent, to collect and receive damages for past, present and future infringement and to seek equitable relief or any other allowable remedy for infringement of the '684 Patent.

27. Targeted Radio has standing to sue for infringement of the '684 Patent.

28. Pandora has not obtained a license to the Patents-in-Suit.

29. Pandora does not have Targeted Radio's permission to make, use, sell, offer to sell, or import products that are covered by one or more claims of the Patents-in-Suit.

30. Pandora needs to obtain a license to the Patents-in-Suit and cease its ongoing infringement of Targeted Radio's patent rights.

GENERAL ALLEGATIONS

Accused Product

31. Upon information and belief, Pandora makes, uses, sells, offers to sell, and/or imports into the United States methods and systems for streaming localized content to a mobile device during a program break in an Internet radio program using mobile device location information. For example, Pandora provides a streaming internet radio service, hereinafter, "Pandora Radio" or the "Accused Instrumentality." Using location information received from users of Pandora Radio, Pandora Radio delivers targeted ads to end-users of Pandora Radio. Further discovery may reveal additional ways in which Pandora infringes the Patents-in-Suit.

32. Upon information and belief, the Pandora Radio is made, used, offered for sale and sold within the Northern District of Texas.

33. Pandora has infringed and continues to infringe (literally and/or under the doctrine of equivalents), directly, indirectly, and/or through subsidiaries, agents, representatives, or intermediaries, one or more claims of the Patents-in-Suit, by making, using, importing, testing, supplying, causing to be supplied, selling, and/or offering for sale in the United States the Accused Instrumentality.

34. Pandora customers have infringed and continue to infringe the Patents-in-Suit by using Pandora Radio, provided by Pandora. Through its product manuals and/or sales and

marketing activities, Pandora solicits, instructs, encourages, and aids and abets its customers to purchase and use Pandora Radio.

35. Pandora contributes to infringement of the Patents-in-Suit under 35 U.S.C. § 271(c) by selling or offering for sale components of the systems claimed in the Patents-In-Suit and/or for use in practicing the methods claims in the Patents-In-Suit. Pandora Radio is not a staple article or commodity of commerce suitable for substantial noninfringing uses. For example, Pandora Radio is a product, method, process, service and/or system which delivers location-based advertising to online radio listeners and is designed in such a way that it contributes to the infringement of at least one claim of the Patents-in-Suit.

36. Pandora has knowledge of the Patents-In-Suit at least as of the filing of this lawsuit.

37. Pandora's ongoing actions are with specific intent to cause infringement of one or more claims of each of the Patents-in-Suit.

38. Further discovery may reveal earlier knowledge of one or more of the Patents-in-Suit, which would provide additional evidence of Pandora's specific intent and/or willful blindness with respect to infringement.

39. Targeted Radio has been and continues to be damaged as a result of Pandora's infringement. Pandora is therefore liable to Targeted Radio in an amount that adequately compensates Targeted Radio for Pandora's infringement, 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.

40. Pandora failed to obtain permission from Targeted Radio to make, use, sell, offer to sell, or import products incorporating the inventions claimed in the Patents-in-Suit.

41. Attached to this Complaint are Exhibits **C** and **D** which are sample claim charts, and Exhibits **E–M** which are exhibits supporting the sample claim charts.

42. For each count of infringement below, Targeted Radio incorporates and re-states the allegations contained in the preceding paragraphs above including these General Allegations as if fully set forth in each count of infringement.

COUNT I – INFRINGEMENT OF THE '756 PATENT

43. Targeted Radio hereby incorporates the allegations made in paragraphs 1–42.

44. Pandora has been and is now directly infringing the '756 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale, and/or importing into the United States products that are covered by and/or that practice the methods described in at least Claims 1, 2, 5–8, 10, 11, 13–20, 26–29, 32–35, 37, 38, 40–48, 51–54, 56, 57, 59–66, 72, and 73 of the '756 Patent.

45. Pandora makes, uses, sells, offers to sell, and/or imports an Internet radio source for streaming localized content to a mobile device during a program break in an Internet radio program using mobile device location information. This system infringes at least Claims 47, 48 51–54, 56, 57, 59–66, 72, and 73 of the '756 Patent.

46. Additionally, by supporting, developing, implementing, operating and/or otherwise providing Pandora Radio, Pandora has practiced a method for streaming localized content to a mobile device during a program break and/or advertising break in an Internet radio program. This method infringes at least Claims 1, 2, 5–8, 10, 11, 13–20, 26–29, 32–35, 37, 38, 40–46 of the '756 Patent.

47. For example, Pandora operates Pandora Radio and delivers location-based advertising during program breaks to users of Pandora Radio.

48. In addition, Pandora has been and is now indirectly infringing the '756 Patent in violation of 35 U.S.C. § 271(b) at least by actively inducing its customers to directly infringe the '756 Patent by using Pandora Radio. For example, Pandora provides Pandora Radio to its

customers and instructs its customers how to use Pandora Radio for the express purpose of having its customers use the Accused Product in violation of 35 U.S.C. § 271(a). Pandora solicits, instructs, aids and abets, and encourages its customers to purchase and use the Accused Product. Pandora's inducement of infringement of the '756 Patent is willful.

49. In addition, Pandora has been and is now contributing to infringement of the Patents-in-Suit under 35 U.S.C. § 271(c) by selling components of an infringing system (*e.g.*, Pandora Radio). Pandora Radio is not a staple article or commodity of commerce suitable for substantial noninfringing uses. For example, Pandora Radio is a product, method, process, service and/or system which delivers location-based advertising to online radio listeners and is designed in such a way that it contributes to the infringement of at least Claims 1, 2, 5–8, 10, 11, 13–20, 26–29, 32–35, 37, 38, 40–48, 51–54, 56, 57, 59–66, 72, and 73 and the '756 Patent.

50. Pandora has had actual knowledge of the '756 Patent at least since the filing of this lawsuit.

51. Pandora's ongoing actions represent a specific intent to induce infringement of at least Claims 1, 2, 5–8, 10, 11, 13–20, 26–29, 32–35, 37, 38, 40–48, 51–54, 56, 57, 59–66, 72, and 73 and the '756 Patent.

52. As a result of Pandora's infringement of the '756 Patent, Targeted Radio has suffered and is owed monetary damages that are adequate to compensate it for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

COUNT II – INFRINGEMENT OF THE '684 PATENT

53. Targeted Radio hereby incorporates the allegations made in paragraphs 1–52.

54. Pandora has been and is now directly infringing the '684 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale, and/or importing into the United States

products that are covered by and/or that practice the methods described in at least Claims 1, 3, 4, and 5 of the '684 Patent.

55. By supporting, developing, implementing, operating and/or otherwise providing Pandora Radio, Pandora has practiced a method for streaming localized content to a mobile device during an advertising break in an Internet radio stream. This method infringes at least Claims 1, 3, 4, and 5 of the '684 Patent.

56. For example, Pandora operates Pandora Radio and delivers location-based advertising during program breaks to users of Pandora Radio.

57. In addition, Pandora has been and is now indirectly infringing the '684 Patent in violation of 35 U.S.C. § 271(b) at least by actively inducing its customers to directly infringe the '684 Patent by using Pandora Radio. For example, Pandora provides Pandora Radio to its customers and instructs its customers how to use Pandora Radio for the express purpose of having its customers use the Accused Product in violation of 35 U.S.C. § 271(a). Pandora solicits, instructs, aids and abets, and encourages its customers to purchase and use the Accused Product. Pandora's inducement of infringement of the '684 Patent is willful.

58. In addition, Pandora has been and is now contributing to infringement of the Patents-in-Suit under 35 U.S.C. § 271(c) by selling components of an infringing system (*e.g.*, Pandora Radio). Pandora Radio is not a staple article or commodity of commerce suitable for substantial noninfringing uses. For example, Pandora Radio is a product, method, process, service and/or system which delivers location-based advertising to online radio listeners and is designed in such a way that it contributes to the infringement of at least Claims 1, 3, 4, and 5 of the '684 Patent.

59. Pandora has had actual knowledge of the '684 Patent at least since the filing of this lawsuit.

60. Pandora's ongoing actions represent a specific intent to induce infringement of at least Claims 1, 3, 4, and 5 of the '684 Patent.

61. As a result of Pandora's infringement of the '684 Patent, Targeted Radio has suffered and is owed monetary damages that are adequate to compensate it for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

DEMAND FOR A JURY TRIAL

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

REQUEST FOR RELIEF

63. Targeted Radio respectfully requests that this Court enter judgment in its favor and grant the following relief:

64. A judgment that Pandora has directly infringed one or more claims of the Patents-in-Suit;

65. A judgment that Pandora has indirectly infringed one or more claims of the Patents-in-Suit;

66. A judgment and order requiring Pandora to pay Targeted Radio past and future damages under 35 U.S.C. § 284, including for supplemental damages arising from any continuing post-verdict infringement for the time between trial and entry of the final judgment with an accounting, as needed, as provided by 35 U.S.C. § 284;

67. A judgment and order requiring Pandora to pay Targeted Radio reasonable ongoing royalties on a going-forward basis after final judgment;

68. A judgment and order requiring Pandora to pay Targeted Radio pre-judgment and post-judgment interest on the damages award;

69. A judgment and order requiring Pandora to pay Targeted Radio's costs; and

70. Such other and further relief as the Court may deem just and proper.

Dated: September 26, 2019

Respectfully submitted,



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