

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

VARTA MICROBATTERY GMBH,

Plaintiff,

v.

AUDIO PARTNERSHIP LLC AND AUDIO
PARTNERSHIP PLC D/B/A CAMBRIDGE
AUDIO

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff VARTA Microbattery GmbH (“VARTA”) files this Complaint for Patent Infringement of United States Patent Nos. 9,153,835; 9,496,581; 9,799,913; and 9,799,858 (collectively “the Patents-in-Suit”) against Defendants Audio Partnership LLC and Audio Partnership PLC d/b/a “Cambridge Audio” (collectively “Audio Partnership” or “Defendants”), and alleges as follows:

PARTIES

1. VARTA is a German limited liability company headquartered at VARTA-Platz 1, 73479 Ellwangen, Baden-Württemberg, Germany.
2. Audio Partnership LLC is a corporation organized under the laws of the State of Florida with a place of business in Illinois and this Judicial District, including at 1913 N. Milwaukee Ave., Chicago, IL 60647.
3. Audio Partnership PLC is a corporation organized under the laws of the United Kingdom with a place of business at Gallery Court, Hankey Place, London SE1 4BB, United

Kingdom. On information and belief, Audio Partnership PLC owns 100% of the equity in Audio Partnership LLC.

4. On information and belief, Audio Partnership LLC and Audio Partnership PLC conduct business including in this jurisdiction under the name Cambridge Audio.

JURISDICTION AND VENUE

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

6. This Court has personal jurisdiction over Audio Partnership in this action because Audio Partnership has committed and continues to commit infringing acts within the Northern District of Illinois and has established minimum contacts with this District such that exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

7. Audio Partnership sells and offers for sale in the State of Illinois and/or imports into the State of Illinois the infringing products, including by placing such products into the stream of commerce through established distribution channels including through retail facilities and internet sites with the knowledge and understanding that such products will be sold throughout the State of Illinois including in this District. Audio Partnership has purposefully availed itself of the privileges of conducting business in the State of Illinois, including by deriving substantial revenues from importing and selling the infringing products here.

8. This Court has jurisdiction over Audio Partnership LLC due to its continuous and systematic contacts with the State of Illinois and this District, including by having a physical presence in this District at its registered address and retail store at 1913 N. Milwaukee Ave., Chicago, IL 60647 from which the infringing products are sold and offered for sale, and by conducting continuous and substantial business in the State of Illinois from which Audio

Partnership LLC has derived significant revenue including through sales of the infringing products.

9. This Court has jurisdiction over Audio Partnership PLC due to its continuous and systematic contacts with the state of Illinois and this District, including by placing the infringing products in the stream of commerce with the knowledge, intention, and expectation they will be sold in, offered for sale in, and/or imported into the Northern District of Illinois, including at its wholly owned subsidiary Audio Partnership LLC's registered address and retail store at 1913 N. Milwaukee Ave., Chicago, IL 60647.

10. Audio Partnership PLC has purposefully directed activities toward this Judicial District and availed itself of the privilege of doing business in this district through its website, CambridgeAudio.com, through which the infringing products can be purchased and that includes a link to the Terms and Conditions of Sale that directs U.S. customers to contact Cambridge Audio, 1913 N. Milwaukee Ave., Chicago, IL 60647 regarding inquiries about delivery, cancelation, disputes, and other questions.

11. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. § 1400(b) because Audio Partnership LLC has committed and continues to commit acts of infringement by selling and offering to sell in and/or importing into this District the infringing products and because Audio Partnership LLC has regular and established places of business in this District at its registered address and retail store at 1913 N. Milwaukee Ave., Chicago, IL 606047, from which the infringing products are sold and offered for sale.

12. Venue is proper in the Northern District of Illinois over Audio Partnership PLC pursuant to 28 U.S.C. § 1391(c)(3) because Audio Partnership PLC is a foreign alien that may be sued in any judicial district.

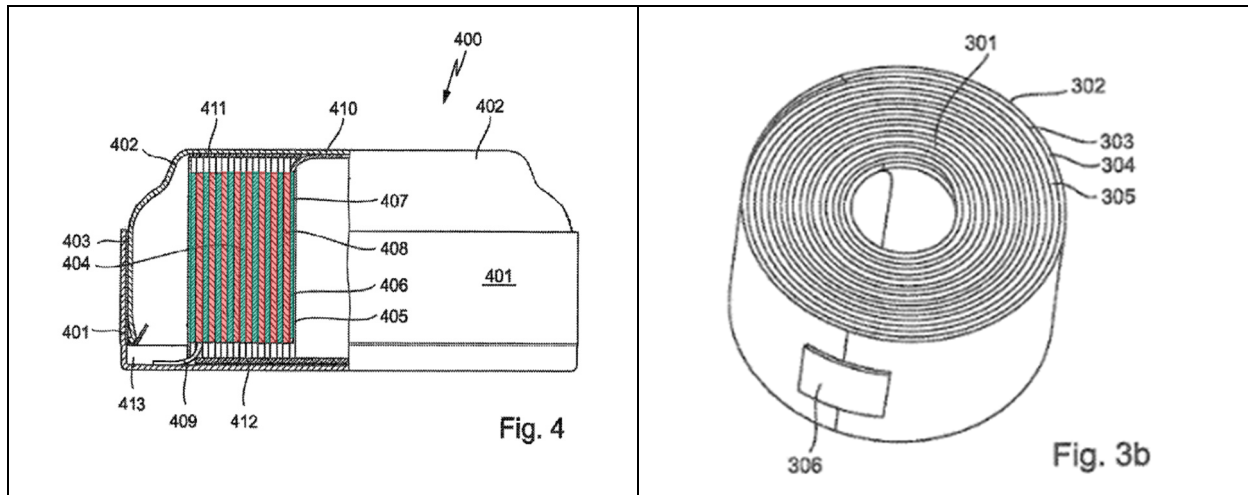
BACKGROUND

13. VARTA is a leading manufacturer of microbatteries, which include batteries referred to as button cells and coin cells due to their small form factor and low height. Applications for VARTA microbatteries include, for example, watches, hearing aids, and wearable cordless devices such as wireless earphones.

14. In the mid-to-late 2000's, VARTA undertook efforts to design and develop a novel and proprietary microbattery technology with excellent mechanical strength characteristics, increased power density, and better space utilization.

15. VARTA's novel and proprietary design includes an electrode-separator assembly located between a housing cup and a housing top that includes at least one positive electrode and at least one negative electrode separated by a separator. The electrodes and the separator may be formed from flat layers that may be laminated or bonded together. The assembly is wound into a spiral winding and located in the housing so that the electrodes are disposed at essentially right angles to the flat bottom and top areas of the housing cup and housing top respectively.

16. Figures 3b and 4 of the Patents-in-Suit illustrate an example of an embodiment of the invention. The electrodes 407 of one polarity (highlighted in green) and the electrodes 408 of the other polarity (highlighted in red) are wound in a spiral configuration (shown generally in FIG. 3b). The electrodes 407, 408 may be separated from each other by separator layers 405, 406 of non-conductive material.



17. The lower housing cup and the upper housing top are fitted together to form a housing about the electrode-separator assembly.

18. Electrical contact between the electrode-separator assembly and the flat top and/or bottom areas may occur through an output conductor comprising a piece of foil resting between the spiral winding and the flat top and/or bottom areas.

19. VARTA sells and offers for sale its patented microbatteries in the United States and worldwide *inter alia* under the trademark CoinPower®.

THE PATENTS IN SUIT

20. VARTA spent a great deal of time, effort, and expense in the research and development that lead to the CoinPower microbatteries. Because of their outstanding performance, the CoinPower microbatteries have been highly successful and well accepted by the market across the world. In recognition of the break-through nature of its invention, VARTA was granted an international patent portfolio covering various aspects of the CoinPower microbatteries, including a number of patents in the United States, with additional patent applications still pending in the United States Patent and Trademark Office.

21. On October 6, 2015, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,153,835 (“the ’835 Patent”), entitled “Button Cells and Method for Producing Same” to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’835 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’835 Patent. A true and correct copy of the ’835 Patent is attached hereto as Exhibit A.

22. On November 15, 2016, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,496,581 (“the ’581 Patent”), entitled “Button Cells and Method of Producing Same” to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’581 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’581 Patent. A true and correct copy of the ’581 Patent is attached hereto as Exhibit B.

23. On October 24, 2017, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,799,913 (“the ’913 Patent”), entitled “Button Cells and Method of Producing Same” to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’913 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’913 Patent. A true and correct copy of the ’913 Patent is attached hereto as Exhibit C.

24. The ’835 Patent, ’581 Patent, and ’913 Patent each claim priority to International Patent Application PCT/EP2010/000787 filed on February 9, 2010 on behalf of VARTA, which


in turn claims priority to three applications filed in Germany: Application No. DE 10 2009 008 859 filed February 9, 2009, Application No. DE 10 2009 030 359 filed June 18, 2009, and Application No. DE 10 2009 060 788 filed December 22, 2009.

25. On October 24, 2017, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,799,858 (“the ’858 Patent”), entitled “Button Cell having Winding Electrode and Method for the Production Thereof” to inventor Winfried Gaugler of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’858 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’858 Patent. A true and correct copy of the ’858 Patent is attached hereto as Exhibit D.



26. The ’858 Patent claims priority to International Patent Application PCT/EP2010/058637 filed on June 18, 2010, which in turn claim priority to two application filed in Germany: Application No. DE 10 2009 030 359 filed on June 18, 2009 and Application No. DE 10 2009 060 800 filed on December 31, 2009.


THE INFRINGING PRODUCTS

27. On information and belief, Audio Partnership sells and offers for sale in the United States and/or imports into the United States products with infringing microbatteries including batteries from MIC-Power of China bearing the part number M1254S2 found in products such as, for example, wireless earphones by Cambridge Audio under the name Melomania 1.

 CAMBRIDGE AUDIO

HI-FI SPEAKERS HOME CINEMA ALL PRODUCTS RANGES




MELOMANIA 1

REPLACEMENT EARBUDS (PAIR)


- Available in Black and Stone
- Replacement tips included
 - Silicon S, M & L
 - Foam M & L
- Case not included


\$50





OUT OF STOCK

FIND A RETAILER

 FREE DELIVERY

 30-DAY RETURN POLICY

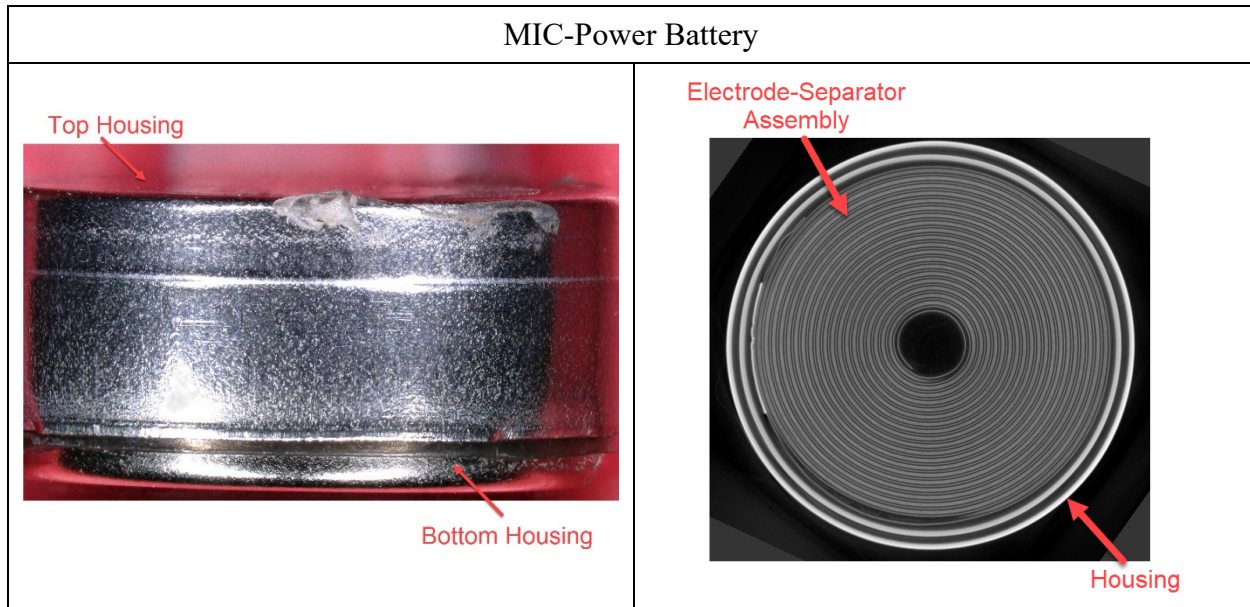
 UNLIMITED SUPPORT

 CHECKOUT WITH AMAZON PAY, PAYPAL & MAJOR CREDIT CARDS

(source: <https://www.cambridgeaudio.com/usa/en/products/melomania-1/replacement-earbuds>)

28. The microbatteries provide a source of rechargeable power for the wireless earphones and other electronic devices in which they are included.

29. The M1254S2 battery includes a housing cup with a flat bottom area and a housing top with a flat top area as shown below.



30. The M1254S2 batteries include an electrode-separator assembly within the housing having a positive electrode and a negative electrode in the form of flat layers connected to and separated by a flat separator.

31. The electrode-separator assembly of the M1254S2 batteries are in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area so that the electrodes are aligned essentially at right angles to the flat bottom area and the flat top area when the housing cup and housing top are closed.

32. Audio Partnership d/b/a Cambridge Audio, without license or authorization, has sold and offered to sell and continues to sell and offers to sell in the United States and/or imports into the United States infringing products having at least the M1254S2 batteries.

33. Audio Partnership d/b/a Cambridge Audio has infringed and continues to infringe by selling and offering to sell in the United States and/or importing into the United States infringing products having at least the M1254S2 batteries.

COUNT I: INFRINGEMENT OF THE '835 PATENT

34. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its Complaint as if fully set forth herein.

35. On information and belief, Audio Partnership has infringed and continues to infringe at least claim 1 of the '835 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States infringing products having at least the M1254S2 batteries.

36. More particularly, the M1254S2 batteries have a housing cup and a housing top separated from one another by an electrically insulating seal to form a housing with a flat bottom area and a flat top area.

37. The M1254S2 batteries have an electrode-separator assembly within the housing with a positive and a negative electrode in the form of flat layers and that are connected to one another by a flat separator.

38. The M1254S2 batteries have an electrode-separator assembly where the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area and the housing cap and the housing top are closed without being beaded over.

39. The M1254S2 batteries have an electrode-separator assembly in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area.

40. The M1254S2 batteries have an insulator arranged between the end faces of the spiral winding and the housing cup and the housing top.

41. On information and belief, Audio Partnership has infringed and continues to infringe at least claim 10 of the '835 Patent under 35 U.S.C. § 271(g) by importing into and/or

selling in the United States infringing products having at least the M1254S2 batteries which are made by a process that involves each and every step set forth in at least claim 10.

42. On information and belief, the M1254S2 batteries are produced by inserting an electrode-separator assembly with electrodes in the form of a flat layer into the housing such that the electrode layers are aligned essentially at right angles to the flat bottom and top areas.

43. Audio Partnership is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the '835 Patent.

44. As a result of Audio Partnership's infringement of the '835 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for Audio Partnership's infringing acts.

45. VARTA has been, and will continue to be, damaged by Audio Partnership's infringement of the '835 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

COUNT II: INFRINGEMENT OF THE '581 PATENT

46. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its Complaint as if fully set forth herein.

47. On information and belief, Audio Partnership has infringed and continues to infringe at least claim 1 of the '581 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States infringing products having at least the M1254S2 batteries.

48. More particularly, the M1254S2 batteries have a housing cup and a housing top separated from one another by an electrically insulating seal to form a housing with a flat bottom area and a flat top area.

49. The M1254S2 batteries have an electrode-separator assembly within the housing with a positive and a negative electrode in the form of flat layers and that are connected to one another by a flat separator.

50. The M1254S2 batteries have an electrode-separator assembly where the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area.

51. The M1254S2 batteries have an electrode-separator assembly in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area.

52. The M1254S2 batteries have one of the electrodes that connects to the flat bottom area or the flat top area via an output conductor comprising a foil resting flat between an end face of the spiral winding and the flat top or the flat bottom area to which it is connected.

53. On information and belief, Audio Partnership has infringed and continues to infringe at least claim 10 of the '581 Patent under 35 U.S.C. § 271(g) by importing into and/or selling in the United States infringing products having at least the M1254S2 batteries which are made by a process that involves each and every step set forth in at least claim 10.

54. On information and belief, the M1254S2 batteries are produced with the electrode-separator inserted into the housing such that the electrodes are aligned at essentially right angles to the flat bottom area and the flat top area.

55. Audio Partnership is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the '581 Patent.

56. As a result of Audio Partnership's infringement of the '581 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable

royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for Audio Partnership's infringing acts.

57. VARTA has been, and will continue to be, damaged by Audio Partnership's infringement of the '581 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

COUNT III: INFRINGEMENT OF THE '913 PATENT

58. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its Complaint as if fully set forth herein.

59. On information and belief, Audio Partnership has infringed and continues to infringe at least claims 1, 4, and 6 of the '913 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States infringing products having at least the M1254S2 batteries.

60. More particularly, the M1254S2 batteries have a housing cup and a housing top separated from one another by an electrically insulating seal to form a housing with a flat bottom area and a flat top area.

61. The M1254S2 batteries have an electrode-separator assembly within the housing with a positive and a negative electrode in the form of flat layers and that are connected to one another by a flat separator.

62. The M1254S2 batteries have an electrode-separator assembly where the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area.

63. The M1254S2 batteries have an electrode-separator assembly in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area.

64. The M1254S2 batteries have an electrode-separator assembly where at least one of the electrodes connects to the flat bottom area or flat top area by an output connector comprising a foil resting between the end faces of the spiral winding and the flat top or bottom areas.

65. The M1254S2 batteries have an insulator arranged between the end faces of the spiral winding and the housing cup and the housing top preventing direct mechanical and electrical contact.

66. The M1254S2 batteries have at least one flat layer composed of plastic preventing direct mechanical and electrical contact between the end faces of the winding and the flat bottom and flat top areas.

67. Audio Partnership is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the '913 Patent.

68. As a result of Audio Partnership's infringement of the '913 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for Audio Partnership's infringing acts.

69. VARTA has been, and will continue to be, damaged by Audio Partnership's infringement of the '913 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

COUNT IV: INFRINGEMENT OF THE '858 PATENT

70. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its complaint as if fully set forth herein.

71. On information and belief, Audio Partnership has infringed and continues to infringe at least claim 1 of the '858 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States infringing products having at least the M1254S2 batteries.

72. More particularly, the M1254S2 batteries include two metal housing halves separated from one another by an electrically insulating seal forming a housing having a plane bottom region and a plane top region.

73. The M1254S2 batteries include an electrode-separator assembly having one positive electrode and one negative electrode in the housing in the form of a winding, the lateral ends of which face in a direction of the plane bottom region and the plane top region such that the layers of the winding are oriented essentially orthogonal to the plane bottom region and the plane top region.

74. The M1254S2 batteries include metal conductors electrically coupled to the positive electrode and the negative electrode and, respectively, to one of the housing halves.

75. The M1254S2 batteries include a height-to-diameter ratio of less than one.

76. In the M1254S2 batteries, one of the conductors is a metal foil and connects to the respective housing half with a weld bead or weld spot passing through and originating from the outer side of the housing and the metal foil connects to the respective housing half by bearing flat on one lateral end side of the electrode-separator assembly winding and is shielded from the lateral ends sides of the winding by insulting elements.

77. On information and belief, Audio Partnership has infringed and continues to infringe at least claim 9 of the '858 Patent under 35 U.S.C. § 271(g) by importing into and/or

selling in the United States infringing products having at least the M1254S2 batteries which are made by a process that involves each and every step set forth in at least claim 9.

78. On information and belief, the M1254S2 batteries are produced by providing first and second metal housing halves, placing an electrode-separator assembly including a positive electrode and a negative electrode in one of the housing halves with a metal conductor bonded to at least one of the electrodes, assembling the two housing halves together, and laser welding the conductor to the metal housing half.

79. Audio Partnership is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the '858 Patent.

80. As a result of Audio Partnership's infringement of the '858 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for Audio Partnership's infringing acts.

81. VARTA has been, and will continue to be, damaged by Audio Partnership's infringement of the '858 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

PRAYER FOR RELIEF

WHEREFORE, VARTA prays for judgment on the Complaint as follows:

A. A judgement declaring that Audio Partnership is liable for infringement of the '835 Patent, the '581 Patent, the '913 Patent, and the '858 Patent;

B. An award to VARTA and against Audio Partnership of compensatory damages for infringement of the '835 Patent, the '581 Patent, the '913 Patent, and the '858 Patent together with all pre-judgment and post-judgment interest;

C. Entry of a preliminary and/or permanent injunction against Audio Partnership pursuant to 35 U.S.C. § 283 and/or the equitable powers of the Court to prevent further infringement of the '835 Patent, the '581 Patent, the '913 Patent, and the '858 Patent;

D. A declaration that this is an exceptional case within the meaning of 35 U.S.C. § 285 and an award to VARTA of its reasonable attorneys' fees; and

E. An award of any and all other relief as this Court may deem just and proper under the circumstances.

JURY DEMAND

Pursuant to Rule 38(B) of the Federal Rules of Civil Procedure, VARTA requests a trial by jury on all triable issues.

Dated: March 3, 2020

Respectfully submitted,

/s/ H. Michael Hartmann

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