

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TOPDOWN LICENSING LLC,

Plaintiff,

v.

SOUND UNITED, LLC,

Defendant.

Civil Action No.

ORIGINAL COMPLAINT

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Topdown Licensing LLC (“Topdown”) files this original complaint against Sound United, LLC, (“Sound United” or “Defendant”), for infringement of U.S. Patent Nos. 8,835,739 (“the ‘739 Patent”), 8,178,773 (“the ‘773 Patent”), and 7,858,870 (“the ‘870 Patent”) (collectively, the “Asserted Patents”) alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, as follows:

PARTIES

1. Topdown is a limited liability company formed under the laws of the State of Texas, with a principal place of business at 6001 W Palmer Ln, Ste 370 #1071, Austin, TX 78727.

2. Defendant Sound United, LLC, is a company organized and existing under the laws of the state of Delaware with its principal place of business at 1 Viper Way, Ste. 103, Vista, CA 92081. Sound United conducts business in and is doing business in Delaware and in this District and elsewhere in the United States, including, without limitation, using, promoting, offering to sell, importing and/or selling DenonDJ MCX8000 and Engine Prime that embody the patented technology, and enabling end-user purchasers to use such devices in this District. Sound

United may be served thru its registered agent: The Corporation Trust Company, Corporation Trust Center 1209 Orange St., Wilmington, DE 19801.

JURISDICTION AND VENUE

3. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284–85, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this district under 28 U.S.C. §§ 1400(b). Defendant has a place of business within this District and has committed the acts of which are the subject of this complaint within this District.

5. Defendant is subject to this Court’s specific and general personal jurisdiction under due process and/or the Delaware Long Arm Statute due at least to Defendant’s substantial business in this forum, 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 Delaware and in this district.

U.S. PATENT NO. 8,835,739

6. U.S. Patent No. 8,835,739, titled “Keystroke and MIDI Command System for DJ Players and Video Game Systems,” teaches a software application for enabling a single controller to trigger complex sequences of keystrokes or MIDI control messages to a multi-media device. Attached hereto as Exhibit A.

7. On September 16, 2014, the ’739 Patent was duly and legally issued by the United States Patent and Trademark Office.

8. In the prior art, “a particular keystroke controls a dedicated function” and as applications increase in “performance and complexity” the “user is increasingly challenged to master the respective controllers and functions to create appealing and successful performances.” ’739 Patent at 1:39-41. In contrast, the invention of the ’739 Patent provides “technical advantages as mapping software configured to enable a single controller trigger to send arbitrarily complex sequences of keystrokes and/or MIDI control messages to a multi-media device.” *Id.* at 1:47-50. “Each trigger of the controller can be uniquely programmed to generate a complex sequence of keystrokes and/or MIDI control messages, allowing more complex and higher performance control of the multi-media device.” *Id.* at 1:53-55.

9. This functionality was at least unconventional as of the priority date of the invention. For example, even in 2014 the functionality disclosed in the 739 Patent was considered unconventional. *See, e.g., Musical Meshworks: From Networked Performance to Cultures of Exchange* available at <https://dl.acm.org/doi/pdf/10.1145/2598510.2598583> (describing similar functionality to that claimed as unconventional); *See also* Declaration of Bencar, attached hereto as Exhibit D.

10. Topdown is the owner of the ’739 Patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the ’739 patent against infringers, and to collect damages for all relevant times.

11. The ’739 Patent is valid and enforceable under United States Patent laws.

U.S. PATENT NO. 8,178,773

12. U.S. Patent No. 8,178,773, titled “System and Methods for the Creation and Performance of Enriched Musical Composition,” teaches a system which provides for

associating content with one or more triggers and provides user interfaces for causing content to be presented to an audience. Attached hereto as Exhibit B.

13. On May 15, 2012, the '773 Patent was duly and legally issued by the United States Patent and Trademark Office.

14. Topdown is the owner of the '773 Patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '773 patent against infringers, and to collect damages for all relevant times.

15. The '773 Patent is valid and enforceable under United States Patent laws.

U.S. PATENT NO. 7,858,870

16. U.S. Patent No. 7,858,870, titled "System and Methods for the Creation and Performance of Sensor Stimulating Content," teaches a system which provides for associating content with one or more triggers and provides user interfaces for causing content to be presented to an audience. Attached hereto as Exhibit C.

17. On December 28, 2010, the '870 Patent was duly and legally issued by the United States Patent and Trademark Office.

18. Topdown is the owner of the '870 Patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '870 patent against infringers, and to collect damages for all relevant times.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,835,739

19. Sound United made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale music software for DJ's, including, for example, at least the

DenonDJ MCX8000 with accompanying Engine Prime software, which infringe one or more claims of the '739 Patent.



MCX8000

PROFESSIONAL STANDALONE DJ PLAYER AND DJ CONTROLLER

<https://www.denondj.com/professional-dj-controller-for-serato-mcx8000xus>

20. By doing so, Defendant has directly infringed (literally and/or under the doctrine of equivalents) at least Claim 1 of the '739 Patent. Defendant's infringement in this regard is ongoing.

21. Defendant has infringed claim 1 of the '739 Patent by making, having made, using, importing, providing, supplying, distributing, selling or offering for sale the DenonDJ MCX8000 with the accompanying Engine Prime software, which is a computer readable

medium, including instructions for controlling a multi-media application, comprising; instructions for receiving a control signal from a controller having at least one trigger; instructions for associating a software control with each said trigger; and instructions for each said software control such that a plurality of keystrokes and/or a plurality of MIDI commands are generated upon receipt of the control signal from the trigger for controlling the multi-media application. *See* Ex. A-1, Figs. 1-14.

22. Topdown has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to Topdown in an amount that adequately compensates Topdown for such infringements, 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.

23. Topdown and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '739 Patent.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 8,178,773

24. Sound United made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale the accused products, including, for example, at least the DenonDJ MCX8000 with the accompanying Engine Prime software, which infringe one or more claims of the '773 Patent when placed into operation.



MCX8000

PROFESSIONAL STANDALONE DJ PLAYER AND DJ CONTROLLER

<https://www.denondj.com/professional-dj-controller-for-serato-mcx8000xus>

25. By doing so, Defendant and its end users have directly infringed (literally and/or under the doctrine of equivalents) at least Claim 1 of the '773 Patent. Defendant's infringement in this regard is ongoing.

26. For example, when placed into operation by Defendant and its end users the DenonDJ MCX8000 with Engine Prime software infringe claim 1 of the '773 Patent. When used, the DenonDJ MCX8000 with the accompanying Engine Prime software comprise a music instrument configured to allow a user to compose interactive musical sounds, comprising: a plurality of triggers configured to be controlled by a user; a processor configured to be controlled by a graphical user interface ("GUI") (*e.g.*, in order to use the DenonDJ MCX8000, Defendant

and its end users must install and use the Engine Prime software, which includes a GUI, on a computer which includes a processor); a controller responsive to the plurality of triggers, and configured to generate control signals as a function of the triggers selected by the user; a plurality of music programs, wherein each said music program is mapped and composed into related components and configured to play sympathetic sounds in real time, the processor configured to generate an electronic signal as a function of the controller control signals and the related components of the plurality of mapped and composed music programs; and at least one sound generator configured to generate the sympathetic sounds as a function of the related components of the mapped and composed music programs. *See* Ex. B-1, Figs. 1-14.

27. Topdown has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to Topdown in an amount that adequately compensates Topdown for such infringements, 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.

28. Topdown and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '739 Patent.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 7,858,870

29. Sound United made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale the accused products, including, for example, at least the DenonDJ MCX8000 with the accompanying Engine Prime software, which infringe one or more claims of the '870 Patent when placed into operation by Defendant or its end users.



MCX8000

PROFESSIONAL STANDALONE DJ PLAYER AND DJ CONTROLLER

<https://www.denondj.com/professional-dj-controller-for-serato-mcx8000xus>

30. By doing so, Defendant and its end users have directly infringed (literally and/or under the doctrine of equivalents) at least Claim 1 of the '870 Patent. Defendant's infringement in this regard is ongoing.

31. Defendant and its end users have infringed claim 18 of the '870 Patent by using, importing, providing, supplying, distributing, selling or offering for sale the DenonDJ MCX8000 with the accompanying Engine Prime software. For example, the DenonDJ MCX8000 with the accompanying Engine Prime software when placed into operation by Defendant or its end users is a music instrument configured to allow a user to compose musical sounds, comprising: a plurality of triggers; a control module responsive to the plurality of triggers; a plurality of music

programs, the control module configured to generate electronic signals as a function of the plurality of music programs and the plurality of triggers, wherein each said music program comprises sound elements comprising a subset of a predetermined musical composition; and a sound generator configured to generate synchronized sympathetic audible musical sounds as a function of the electronic signals.. *See* Ex. C-1, Figs. 1-14.

32. Topdown has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to Topdown in an amount that adequately compensates Topdown for such infringements, 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.

33. Topdown and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '739 Patent.

COUNT IV – INDUCED INFRINGEMENT

34. Defendant has been and/or currently is an active inducer of infringement of the Asserted Patents under 35 U.S.C. § 271(b).

35. Defendant has had knowledge of the Asserted Patents and that the DenonDJ MCX8000 and Engine Prime infringe since at least the filing of this complaint.

36. Defendant has continued to provide the DenonDJ MCX8000 and Engine Prime to its customers and, on information and belief, instructions to use the Accused Instrumentalities in an infringing manner while being on notice of the Asserted Patents and Defendant's infringement. Therefore, Defendant has known of the Asserted Patents and of its own infringing acts since at least the filing of this complaint.

37. Defendant knowingly and intentionally encourages and aids at least its end-user

customers to directly infringe the Asserted Patents. *See, e.g.*, <https://1d2f8a47519b3dc0b576-fff53f927840131da4fecbedd819996a.ssl.cf2.rackcdn.com/Uploads/MCX8000-UserGuide-v1.1.pdf>.

38. Defendant's end-user customers directly infringe at least one or more claims of the Asserted Patents by using DenonDJ MCX8000 and Engine Prime in their intended manner to infringe. Defendant induces such infringement by providing the DenonDJ MCX8000 and Engine Prime and instructions to enable and facilitate infringement, knowing of, or being willfully blind to the existence of, the Asserted Patents. On information and belief, Defendant specifically intends that its actions will result in infringement of one or more claims of the Asserted Patents, or subjectively believe that their actions will result in infringement of the Asserted Patents.

39. Defendant's infringement of the Asserted Patents is exceptional and entitles Topdown to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

40. Topdown is in compliance with any applicable marking and/or notice provisions of 35 U.S.C. § 287 with respect to the Asserted Patents.

41. Topdown is entitled to recover from Defendant all damages that Topdown has sustained as a result of Defendant's infringement of the Asserted Patents, including, without limitation, a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, Topdown respectfully requests:

A. That judgment be entered that Defendant has infringed at least one or more claims of the '739, '773, and '870 Patents, directly and/or indirectly, literally and/or under the doctrine of equivalents;

B. An award of damages sufficient to compensate Topdown for Defendant's infringement under 35 U.S.C. § 284, including an enhancement of damages on account of Defendant's willful infringement;

C. That the case be found exceptional under 35 U.S.C. § 285 and that Topdown be awarded its reasonable attorneys' fees;

D. Costs and expenses in this action;

E. An award of prejudgment and post-judgment interest; and

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

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Topdown respectfully demands a trial by jury on all issues triable by jury.

June 30, 2020

OF COUNSEL:

Hao Ni (*Pro Hac Vice* to be submitted)
Ni, Wang & Massand, PLLC
8140 Walnut Hill Ln., Ste. 310
Dallas, TX 75231
(972) 331-4600
hni@nilawfirm.com

CHONG LAW FIRM, P.A.

/s/ Jimmy Chong
Jimmy Chong (#4839)
2961 Centerville Road, Suite 350
Wilmington, DE 19808
Telephone: (302) 999-9480
Facsimile: (877) 796-4627
Email: chong@chonglawfirm.com
ATTORNEYS FOR PLAINTIFF
Topdown Licensing LLC