

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

MOBILE MICROMEDIA SOLUTIONS LLC,  
a Texas limited liability company,

Plaintiff,

v.

BMW OF NORTH AMERICA, LLC.  
a foreign corporation; and  
HYUNDAI MOTOR AMERICA,  
a foreign corporation,

Defendants.

No. 2:08cv331

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT**

COMES NOW, Plaintiff Mobile Micromedia Solutions, LLC (“MMS”), by and through its undersigned counsel, and files its Complaint for Patent Infringement against the above-named Defendants and for its cause of action hereby states:

**THE PARTIES**

1. MMS is a limited liability company organized and existing under the laws of the State of Texas, and having its registered place of business at 4605 Texas Boulevard, Texarkana, Texas 75503.

2. BMW of North America, LLC (“BMW”), is a Delaware corporation with its principal office located at 300 Chestnut Ridge Road, Woodcliff Lake, New Jersey 07675. BMW may be served by service upon its registered agent, CT Corporation System, 350 N. St. Paul Street, Dallas, Texas 75201. BMW is authorized to do business in the State of Texas, and regularly conducts such business within the State and within this judicial district by way of sales and distribution of automobiles to Texas automobile dealers.

3. Hyundai Motor America (“Hyundai”), is a California corporation with its principal office located at 10550 Talbert Avenue, Fountain Valley, California 92728-0850. Hyundai may be served by service upon its registered agent, National Registered Agents, Inc., 16055 Space Center, Suite 235, Houston, Texas 77062. Hyundai is authorized to do business in the State of Texas, and regularly conducts such business within the State and within this judicial district by way of sales and distribution of automobiles to Texas automobile dealers.

#### JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

5. Subject-matter jurisdiction over MMS’s claims is conferred upon this Court by 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1338(a) (patent jurisdiction).

6. This Court has personal jurisdiction over Defendants because Defendants are subject to general jurisdiction in the State of Texas. Defendants also have established minimum contacts with the forum. Defendants are authorized to do business in the State of Texas and regularly conducts such business. Defendants manufacturer, sell and/or offer to sell products that are and have been used, offered for sale, sold and/or purchased in Texas, including in this judicial district. Defendants—directly and/or through their distribution networks—place their infringing products within the stream of commerce, which stream is directed at this district. Personal jurisdiction over Defendants is also proper inasmuch as Defendants have voluntarily submitted themselves to the jurisdiction of the courts of this State by each registering with the Texas Secretary of State a registered agent within the State of Texas. Therefore, the exercise of personal jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and §1400(b).

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,420,931

8. On May 30, 1995, U.S. Patent No. 5,420,931 (“the ‘931 patent”), a copy of which is attached hereto as Exhibit “A,” was duly and legally issued by the U. S. Patent & Trademark Office (“USPTO”). MMS is the owner by assignment of all right, title and interest in and to the ‘931 patent, including all right to recover for any and all past infringement thereof.

9. Upon information and belief, Defendants have in the past and continue to infringe the ‘931 patent by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services which are covered by at least one claim of the ‘931 patent.

10. As a consequence of the infringement of the ‘931 patent by Defendants, MMS is entitled to recovery of past damages in the form of, at a minimum, a reasonable royalty.

11. Upon information and belief, Defendants will continue to infringe the ‘931 patent unless enjoined by this Court.

12. As a consequence of the infringement by Defendants complained of herein, MMS has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendants are enjoined by this Court from committing further acts of infringement. In the event the Court determines that it will not enter injunctive relief, then it should require Defendants to continue to pay royalties for their infringement of the ‘931 patent on a going-forward basis.

13. Upon information and belief, Defendants’ infringement of the ‘931 patent is willful, entitling MMS to increased damages under 35 U.S.C. § 284 and to attorneys’ fees and

costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 5,722,069

14. On February 24, 1998, U.S. Patent No. 5,722,069 (“the ‘069 patent”), a copy of which is attached hereto as Exhibit “B,” was duly and legally issued by the USPTO. MMS is the owner by assignment of all right, title and interest in and to the ‘069 patent, including all right to recover for any and all past infringement thereof.

15. Upon information and belief, Defendants have in the past and continue to infringe the ‘069 patent by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, products and services which are covered by at least one claim of the ‘069 patent.

16. As a consequence of the infringement by Defendants complained of herein, MMS is entitled to recovery of past damages in the form of, at a minimum, a reasonable royalty.

17. Upon information and belief, Defendants will continue to infringe the ‘069 patent unless enjoined by this Court.

18. As a consequence of the infringement by Defendants complained of herein, MMS has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendants are enjoined by this Court from committing further acts of infringement. In the event the Court determines that it will not enter injunctive relief, then it should require Defendants to continue to pay royalties for their infringement on a going-forward basis.

19. Upon information and belief, Defendants’ infringement of the ‘069 patent is willful, entitling MMS to increased damages under 35 U.S.C. § 284 and to attorneys’ fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, MMS prays for entry of judgment and an order that:

- (1) Defendants have infringed the '931 and '069 patents;
- (2) Defendants account for and pay to MMS all damages and costs of MMS caused by Defendants' patent infringement;
- (3) MMS be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendants, their officers, agents, servants, employees, affiliates and those persons in active concert of participation with them from further acts of patent infringement;
- (4) In the event the Court determines that it will not enter injunctive relief, Defendants continue to pay royalties to MMS for its infringement of the '931 and '069 patents on a going-forward basis;
- (5) MMS be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Defendants' patent infringement, and the damages be trebled in the event the jury determines the infringement was willful;
- (6) Costs and attorney's fees be awarded to MMS, as this is an exceptional case;
- (7) MMS be granted such further and additional relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

MMS demands trial by jury on all claims and issues so triable.

This 29<sup>th</sup> day of August, 2008.

Respectfully submitted,

/s/ Nicholas H. Patton

---

Nicholas H. Patton  
TX Bar No. 15631000  
Geoffrey P. Culbertson  
TX Bar No. 24045732  
PATTON, TIDWELL & SCHROEDER, LLP  
4605 Texas Boulevard  
Texarkana, Texas 75503  
Telephone: 903.792.7080  
Facsimile: 903.792.8233

Patricia L. Peden  
LAW OFFICE OF PATRICIA L. PEDEN  
2901 Christie Avenue, Suite 201  
Emeryville, CA 94608  
Telephone: 510.268.8033  
Facsimile: 510.547.2446

Steven G. Hill  
Eric G. Maurer  
HILL, KERTSCHER & WHARTON, LLP  
3350 Riverwood Parkway, Suite 800  
Atlanta, Georgia 30339  
Telephone: 770.953.0995  
Facsimile: 770.953.1358

*Attorneys for Plaintiff Mobile Micromedia Solutions  
LLC*