

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ADVANCED AUDIO DEVICES, LLC,)	
)	
Plaintiff,)	Civil Action No. 08-CV-3674
)	
v.)	JURY TRIAL DEMANDED
)	
PHILIPS ELECTRONICS NORTH)	Judge: Kendall
AMERICA CORPORATION,)	Magistrate Judge: Cox
)	
Defendant.)	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Advanced Audio Devices, LLC ("AAD") complains of Defendant, Philips Electronics North America Corporation ("Philips"), as follows:

JURISDICTION AND VENUE

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. §1338(a).

2. Venue is proper under 28 U.S.C. §§1391(b), 1391(c), and 1400(b). Defendant transacts business in this judicial district by directly or indirectly selling or offering to sell handheld digital music player devices in this district. Advance Transformer Co., a division of Philips Electronics North America Corporation, is located in this district.

3. Defendant also directly or indirectly engages in substantial business in this judicial district and has had continuous and systematic contacts with and in this district.

PARTIES

4. AAD is an Illinois limited liability company with its headquarters in Lake Forest, Illinois. AAD is the owner of United States Patent No. 6,587,403, (“the ‘403 Patent”) and United States Patent No. 7,289,393 (“the ‘393 Patent”) each of which is entitled “Music Jukebox”. A copy of the ‘403 Patent is attached as Exhibit A and a copy of the ‘393 Patent is attached as Exhibit B.

5. Philips is a Delaware corporation with its principal place of business located at 1251 Avenue of the Americas, New York, New York 10020.

COUNT I

PATENT INFRINGEMENT OF THE ‘403 PATENT

6. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 5 above and incorporates the same by reference as though fully set forth herein.

7. Defendant has infringed the asserted claims of the ‘403 Patent through, among other activities, its manufacture, use, importation, sale and/or offer for sale of handheld digital music players, either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. §271.

8. Specifically, Defendant’s manufacture, use, importation, offer for sale and/or sale of its digital music players, for example, Models PSS110/17, PSA220 and PSA250 and all other devices constructed in a similarly infringing fashion, constitute infringement of at least asserted claims 1, 6, 7, 22, 29, 43, 45, 46, and 48 of the ‘403 Patent. Defendant’s manufacture, use, importation, offer for sale and/or sale of its digital music players, for example, Model HDD077/17 and all other devices constructed in a similarly infringing fashion constitute

infringement of at least asserted claims 1, 6, 7, 13, 22, 29, 43, 45, and 46 of the '403 Patent.

Defendant's manufacture, use, importation, offer for sale and/or sale of its digital music players, for example Model HDD 120/17 and all other devices constructed in a similarly infringing fashion constitute infringement of at least asserted claims 1, 6, 7, 13, 14, 22, 29, 36, 43, 45, and 46 of the '403 Patent.

9. Defendant has knowingly and intentionally induced others to infringe the asserted claims of the '403 Patent (such as their customers and end-users) by willfully and intentionally aiding, assisting and encouraging their infringement.

10. Defendant received actual notice of the '403 Patent at least as early as November 17, 2005, when Plaintiff informed Defendant in writing about the infringement of the '403 Patent and offered Defendant a license. Defendant was provided with detailed claim charts showing the application of the '403 Patent claims to specific Defendant products, but nevertheless refused the offered license.

11. Defendant's infringement has been willful, in violation of 35 U.S.C. §284, and has injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting future infringement, and specifically enjoining further manufacture, use, importation, exportation, offers for sale and/or sales of handheld digital music players covered by the asserted claims of the '403 Patent.

12. Plaintiff is entitled to recover damages adequate to compensate for the infringement that has occurred, but in no event less than a reasonable royalty (35 U.S.C. § 284).

COUNT II

PATENT INFRINGEMENT OF THE '393 PATENT

13. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 5 above and incorporates the same by reference as though fully set forth herein.

14. Defendant has infringed the asserted claims of the '393 Patent through, among other activities, its manufacture, use, importation, sale and/or offer for sale of handheld digital music players, either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. §271.

15. Specifically Defendant's manufacture, use, importation, offer for sale and/or sale of its digital music players, for example, Models GoGear SA6025, GoGear SA9100 and GoGear SA9200 and all other devices constructed in a similarly infringing fashion, constitute infringement of at least asserted claims 85 and 107 of the '393 Patent.

16. Defendant has knowingly and intentionally induced others to infringe the asserted claims of the '393 Patent (such as their customers and end-users) by willfully and intentionally aiding, assisting and encouraging their infringement.

17. Defendant received actual notice of the '393 Patent at least as early as December 5, 2007, when Plaintiff informed Defendant in writing about the infringement of the '393 Patent and offered Defendant a license. Defendant was provided with detailed claim charts showing the application of the '393 Patent claims to specific Defendant products, but nevertheless refused the offered license.

18. Defendant's infringement has been willful, in violation of 35 U.S.C. §284, and has injured and will continue to injure Plaintiff, unless and until this Court enters an injunction

prohibiting future infringement, and specifically enjoining further manufacture, use, importation, exportation, offers for sale and/or sales of handheld digital music players covered by the asserted claims of the '393 Patent.

19. Plaintiff is entitled to recover damages adequate to compensate for the infringement that has occurred, but in no event less than a reasonable royalty (35 U.S.C. § 284).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks this Court to enter judgment against Defendant, and against Defendant's subsidiaries, affiliates, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

A. An award of damages adequate to compensate Plaintiff for the infringement that has occurred, together with prejudgment interest from the date infringement of the '403 Patent began;

B. An award of damages adequate to compensate Plaintiff for the infringement that has occurred, together with prejudgment interest from the date infringement of the '393 Patent began;

C. All other damages permitted by 35 U.S.C. §284;

D. A finding that this case is exceptional and an award to Plaintiff of attorneys' fees and costs, as provided by 35 U.S.C. §285;

E. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the '403 Patent;

F. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the '393 Patent; and

G. Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiff requests a trial by jury on all issues presented in this Complaint.

ADVANCED AUDIO DEVICES, LLC

Date: 7/17/08

By 

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