

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

ADVANCED AUDIO DEVICES, LLC,)
)
 plaintiff,)
)
 v.) No. **10-cv-7699**
)
 BAY CONSUMER, INC., CENTON)
 ELECTRONICS, INC., PROLYNKZ, LLC,)
 ELEMENT ELECTRONICS, INC.,)
 MACH SPEED TECHNOLOGIES, INC.,)
 and SLY ELECTRONICS, LLC,)
)
 defendants.)

COMPLAINT

The plaintiff, ADVANCED AUDIO DEVICES, LLC [hereinafter “AAD”], for its Complaint against BAY CONSUMER, INC. [“BAY”], CENTON ELECTRONICS, INC. [“CENTON”], PROLYNKZ, LLC [“PROLYNKZ”], ELEMENT ELECTRONICS, INC. [“ELEMENT”], MACH SPEED TECHNOLOGIES, INC. [“MACH”], and SLY ELECTRONICS, LLC [“SLY”], states:

THE PARTIES

1. AAD is a limited liability company organized under the laws of the State of Illinois and having a principal place of business at 725 North McKinley Road, Lake Forest, Illinois.
2. BAY is a corporation organized under the laws of the State of California and having a principal place of business at 247 Humboldt Court, Sunnyvale, California.
3. CENTON is a corporation organized under the laws of the State of California and having a principal place of business at 27412 Aliso Viejo Parkway, Aliso Viejo, California.

4. PROLYNKZ is a limited liability company organized under the laws of the State of California and having a principal place of business at 17952 Skypark Circle Building 45-A, Costa Mesa, California.

5. ELEMENT is a corporation organized under the laws of the State of Delaware and having a principal place of business at 701 Xenia Avenue South, Suite 450, Minneapolis, Minnesota.

6. MACH is a corporation organized under the laws of the State of Nevada and having a principal place of business at 300 East Arlington, Suite 3, Ada, Oklahoma.

7. SLY is a corporation organized under the laws of the State of California and having a principal place of business at 9911 West Pico Boulevard, 8th Floor, Los Angeles, California.

JURISDICTION AND VENUE

8. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over BAY because BAY regularly transacts business within this judicial district and has committed acts of patent infringement in this judicial district, thereby causing injury to AAD in this district.

10. This Court has personal jurisdiction over CENTON because CENTON regularly transacts business within this judicial district and has committed acts of patent infringement in this judicial district, thereby causing injury to AAD in this district.

11. This Court has personal jurisdiction over PROLYNKZ because PROLYNKZ regularly transacts business within this judicial district and has committed acts of patent

infringement in this judicial district, thereby causing injury to AAD in this district.

12. This Court has personal jurisdiction over ELEMENT because ELEMENT regularly transacts business within this judicial district and has committed acts of patent infringement in this judicial district, thereby causing injury to AAD in this district.

13. This Court has personal jurisdiction over MACH because MACH regularly transacts business within this judicial district and has committed acts of patent infringement in this judicial district, thereby causing injury to AAD in this district.

14. This Court has personal jurisdiction over SLY because SLY regularly transacts business within this judicial district and has committed acts of patent infringement in this judicial district, thereby causing injury to AAD in this district.

15. Venue lies within this judicial district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Additionally, each defendant has committed acts of patent infringement within this district, thereby causing injury to AAD in this district.

COUNT I—INFRINGEMENT OF UNITED STATES PATENT NO. 6,587,403

16. On July 1, 2003, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,587,403 [“the ‘403 patent”], entitled “Music Jukebox.” A true and correct copy of the ‘403 patent is attached as Exhibit A.

17. AAD owns the ‘403 patent by assignment from the inventors.

BAY

18. BAY has infringed at least claim 1 of the ‘403 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the iVO-Sound M850 MP4 digital audio player, that embody at least claim 1 of the ‘403 patent.

19. BAY has actively induced infringement of the ‘403 patent by others.

20. BAY's infringement of the '403 patent has caused damage to AAD in the form of lost royalty payments.

21. BAY had actual knowledge of the '403 patent since at least July 21, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, BAY's infringement has been willful and deliberate.

CENTON

22. CENTON has infringed at least claim 1 of the '403 patent by making, using, selling, offering to sell, or importing into the United States, digital audio player, including at least the Craze digital audio player, that embody at least claim 1 of the '403 patent.

23. CENTON has actively induced infringement of the '403 patent by others.

24. CENTON's infringement of the '403 patent has caused damage to AAD in the form of lost royalty payments.

25. CENTON had actual knowledge of the '403 patent since at least July 21, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, CENTON's infringement has been willful and deliberate.

PROLYNKZ

26. PROLYNKZ has infringed at least claim 1 of the '403 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the Prolynkz ZYNXZ PZX-324GR digital audio player, that embody at least claim 1 of the '403 patent.

27. PROLYNKZ has actively induced infringement of the '403 patent by others.

28. PROLYNKZ's infringement of the '403 patent has caused damage to AAD in the form of lost royalty payments.

29. PROLYNKZ had actual knowledge of the '403 patent since at least July 27, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, PROLYNKZ's infringement has been willful and deliberate.

ELEMENT

30. On information and belief, ELEMENT provides standards, specifications, and instructions to Grand City (Hong Kong) Ltd. for the manufacture of at least the GC 820 digital audio player.

31. On information and belief, Grand City (Hong Kong) Ltd. imports into the United States digital audio players made in accordance with ELEMENT's standards, specifications, and instructions that infringe at least claim 1 of the '403 patent, including at least the GC 820 digital audio player.

32. ELEMENT warrants to purchasers of digital audio players imported into the United States by Grand City (Hong Kong) Ltd., including at least the GC 820 digital audio player, that ELEMENT will replace or repair products or parts thereof proven to be defective in material or workmanship within one year of the date of original purchase.

33. ELEMENT has therefore infringed at least claim 1 of the '403 patent.

34. ELEMENT has actively induced infringement of the '403 patent by others.

35. ELEMENT's infringement of the '403 patent has caused damage to AAD in the form of lost royalty payments.

36. ELEMENT had actual knowledge of the '403 patent since at least March 11, 2010 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, ELEMENT's infringement has been willful and deliberate.

MACH

37. Defendant MACH has infringed at least claim 1 of the '403 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the Mach Speed Trio V430 Digital Audio Player, that embody at least claim 1 of the '403 patent.

38. MACH has actively induced infringement of the '403 patent by others.

39. MACH's infringement of the '403 patent has caused damage to AAD in the form of lost royalty payments.

40. MACH had actual knowledge of the '403 patent since at least July 30, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, MACH's infringement has been willful and deliberate.

SLY

41. Defendant SLY has infringed at least claim 1 of the '403 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the SLV202G digital audio player, that embody at least claim 1 of the '403 patent.

42. SLY has actively induced infringement of the '403 patent by others.

43. SLY's infringement of the '403 patent has caused damage to AAD in the form of lost royalty payments.

44. SLY had actual knowledge of the '403 patent since at least December 21, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, SLY's infringement has been willful and deliberate.

COUNT II—INFRINGEMENT OF UNITED STATES PATENT NO. 7,289,393

45. On October 30, 2007, the United States Patent and Trademark Office duly and

legally issued United States Patent No. 7,289,393 [“the ‘393 patent], entitled “Music Jukebox.”

A true and correct copy of the ‘393 patent is attached as Exhibit B.

46. AAD owns the ‘393 patent by assignment from the inventors.

BAY

47. Defendant BAY has infringed at least claim 85 of the ‘393 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the iVO-Sound M850 MP4 digital audio player, that embody at least claim 85 of the ‘393 patent.

48. BAY has actively induced infringement of the ‘393 patent by others.

49. BAY’s infringement of the ‘393 patent has caused damage to AAD in the form of lost royalty payments.

50. BAY had actual knowledge of the ‘393 patent since at least July 21, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, BAY’s infringement has been willful and deliberate.

CENTON

51. Defendant CENTON has infringed at least claim 85 of the ‘393 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the Craze digital audio player, that embody at least claim 85 of the ‘393 patent.

52. CENTON has actively induced infringement of the ‘393 patent by others.

53. CENTON’s infringement of the ‘393 patent has caused damage to AAD in the form of lost royalty payments.

54. CENTON had actual knowledge of the ‘393 patent since at least July 21, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, CENTON’s

infringement has been willful and deliberate.

PROLYNKZ

55. PROLYNKZ has infringed at least claim 85 of the '393 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the ZYNXZ PZX-324GR digital audio player, that embody at least claim 85 of the '393 patent.

56. PROLYNKZ has actively induced infringement of the '393 patent by others.

57. PROLYNKZ's infringement of the '393 patent has caused damage to AAD in the form of lost royalty payments.

58. PROLYNKZ had actual knowledge of the '393 patent since at least July 27, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, PROLYNKZ's infringement has been willful and deliberate.

ELEMENT

59. On information and belief, ELEMENT provides standards, specifications, and instructions to Grand City (Hong Kong) Ltd. for the manufacture of at least the GC 820 digital audio player.

60. On information and belief, Grand City (Hong Kong) Ltd. imports into the United States digital audio players made in accordance with ELEMENT's standards, specifications, and instructions, including at least the GC 820 digital audio player, that infringe at least claim 85 of the '393 patent.

61. ELEMENT warrants to purchasers of digital audio players imported into the United States by Grand City (Hong Kong) Ltd., including at least the GC 820 digital audio player, that ELEMENT will replace or repair products or parts thereof proven to be defective in

material or workmanship within one year of the date of original purchase.

62. ELEMENT has therefore infringed at least claim 85 of the '393 patent.

63. ELEMENT has actively induced infringement of the '393 patent by others.

64. ELEMENT's infringement of the '393 patent has caused damage to AAD in the form of lost royalty payments.

65. ELEMENT had actual knowledge of the '393 patent since at least March 11, 2010 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, ELEMENT's infringement has been willful and deliberate.

MACH

66. Defendant MACH has infringed at least claim 85 of the '393 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the Mach Speed Trio V430 Digital Audio Player, that embody at least claim 85 of '393 patent.

67. MACH has actively induced infringement of the '393 patent by others.

68. MACH's infringement of the '393 patent has caused damage to AAD in the form of lost royalty payments.

69. MACH had actual knowledge of the '393 patent since at least July 30, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, MACH's infringement has been willful and deliberate.

SLY

70. Defendant SLY has infringed at least claim 85 of the '393 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the SLV202G digital audio player, that embody at least claim 85 of the '393

patent.

71. SLY has actively induced infringement of the '393 patent by others.

72. SLY's infringement of the '393 patent has caused damage to AAD in the form of lost royalty payments.

73. SLY had actual knowledge of the '393 patent since at least December 21, 2009 yet continued its infringing conduct notwithstanding that knowledge. Accordingly, SLY's infringement has been willful and deliberate.

COUNT III—INFRINGEMENT OF UNITED STATES PATENT NO. 7,817,502

74. On October 19, 2010, the United States Patent and Trademark Office duly and legally issued United States Patent No. 7,817,502 [“the '502 patent”], entitled “Method of Using a Personal Digital Stereo Player.” A true and correct copy of the '502 patent is attached as Exhibit C.

75. AAD owns the '502 patent by assignment from the inventors.

BAY

76. Defendant BAY has infringed at least claim 1 of the '502 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the iVO-Sound M850 MP4 digital audio player, that embody at least claim 1 of the '502 patent.

77. BAY has actively induced infringement of the '502 patent by others.

78. BAY's infringement of the '502 patent has caused damage to AAD in the form of lost royalty payments.

CENTON

79. Defendant CENTON has infringed at least claim 1 of the '502 patent by making,

using, selling, offering to sell, or importing into the United States, digital audio players, including at least the Craze digital audio player, that embody at least claim 1 of the '502 patent.

80. CENTON has actively induced infringement of the '502 patent by others.

81. CENTON's infringement of the '502 patent has caused damage to AAD in the form of lost royalty payments.

PROLYNKZ

82. Defendant PROLYNKZ has infringed at least claim 1 of the '502 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the ZYNKX PZX-324GR digital audio player, that embody at least claim 1 of the '502 patent.

83. PROLYNKZ has actively induced infringement of the '502 patent by others.

84. PROLYNKZ's infringement of the '502 patent has caused damage to AAD in the form of lost royalty payments.

ELEMENT

85. On information and belief, ELEMENT provides standards, specifications, and instructions to Grand City (Hong Kong) Ltd. for the manufacture of at least the GC 820 digital audio player.

86. On information and belief, Grand City (Hong Kong) Ltd. imports into the United States digital audio players made in accordance with ELEMENT's standards, specifications, and instructions, including at least the GC 820 digital audio player, that infringe at least claim 1 of the '502 patent.

87. ELEMENT warrants to purchasers of digital audio players imported into the United States by Grand City (Hong Kong) Ltd., including at least the GC 820 digital audio

player, that ELEMENT will replace or repair products or parts thereof proven to be defective in material or workmanship within one year of the date of original purchase.

88. ELEMENT has therefore infringed at least claim 85 of the '502 patent.

89. ELEMENT has actively induced infringement of the '502 patent by others.

90. ELEMENT's infringement of the '502 patent has caused damage to AAD in the form of lost royalty payments.

MACH

91. Defendant MACH has infringed at least claim 1 of the '502 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the Mach Speed Trio V430 Digital Audio Player, that embody at least claim 1 of the '502 patent.

92. MACH has actively induced infringement of the '502 patent by others.

93. MACH's infringement of the '502 patent has caused damage to AAD in the form of lost royalty payments.

SLY

94. Defendant SLY has infringed at least claim 1 of the '502 patent by making, using, selling, offering to sell, or importing into the United States, digital audio players, including at least the SLV202G digital audio player, that embody at least claim 1 of '502 patent.

95. SLY has actively induced infringement of the '502 patent by others.

96. SLY's infringement of the '502 patent has caused damage to AAD in the form of lost royalty payments.

WHEREFORE, Advanced Audio Devices, LLC prays that this Court enter judgment in AAD's favor and against BAY, CENTON, PROLYNKZ, ELEMENT, MACH, and SLY, and to award:

- A. Damages adequate to compensate AAD for the infringement that has occurred, in the amount of a reasonable royalty;
- B. Prejudgment interest from the dates infringement of the patents-in-suit began;
- C. All costs of this action;
- D. Increased damages under 35 U.S.C. § 284;
- E. Attorneys' fees under 35 U.S.C. § 285;
- F. A permanent injunction prohibiting further infringement of the patents-in-suit; and
- G. Such other and further relief as this Court may deem proper.

JURY DEMAND

AAD requests a trial by jury on all issues triable by jury.

Respectfully submitted,
ADVANCED AUDIO DEVICES, LLC

Date: December 3, 2010

By: s/Timothy M. McCarthy

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