

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

FILED

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U.S. DISTRICT COURT E.D.N.Y.

★ FEB 18 2009

AUDIOVOX CORPORATION,

Civil Action No.

BROOKLYN OFFICE

Plaintiff,

- v. -

FORJ ENTERPRISES, INC.

Defendant.

**COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL**

PLATT, J. LINDSAY, M.J.

Plaintiff Audiovox Corporation ("Audiovox"), for its complaint against defendant FORJ Enterprises, Inc. ("FORJ"), alleges and states as follows:

NATURE OF THE ACTION

1. Audiovox seeks injunctive relief and damages as a result of FORJ's infringement of U.S. Patent Nos. 7,245,274 ("the '274 Patent") and 5,775,762 ("the '762 Patent").

PARTIES

2. Audiovox is a corporation organized and existing under the laws of Delaware, with its principal place of business at 180 Marcus Boulevard, Hauppauge, New York.

3. Upon information and belief, FORJ is a corporation organized and existing under the laws of Pennsylvania, with a place of business at 557 Valley View Road, Springfield, Pennsylvania.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under the provisions of 28 U.S.C. §§ 1331 and 1338(a), because this is an action for patent infringement arising under the laws of the

United States, including 35 U.S.C. §§ 271 and 281-285.

5. Upon information and belief, FORJ has transacted business and has committed tortious acts of patent infringement within the State of New York and within this Judicial District with respect to the '274 and '762 Patents, and is thereby subject to the personal jurisdiction of this Court.

6. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391 and 1400(b).

Count I: FORJ's Infringement Of The '274 Patent

7. Audiovox is the legal owner by assignment of the '274 Patent, a copy of which is attached hereto as Exhibit A. The '274 patent, entitled "Headrest Mountable Video System", was duly and lawfully issued by the U.S. Patent and Trademark Office on July 17, 2007.

8. Audiovox markets and sells, throughout the United States, headrest mountable video systems embodying the claimed invention of the '274 Patent through its wholly owned subsidiary, Audiovox Electronics Corporation ("Audiovox Electronics"). Audiovox Electronics is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 180 Marcus Boulevard, Hauppauge, New York. All profits from Audiovox Electronics' sales of video systems embodying the patented invention flow to Audiovox.

9. Upon information and belief, FORJ has infringed and continues to infringe (directly, indirectly, contributorily and/or by inducement) the '274 Patent by making, using, importing, offering to sell and/or selling (directly or through intermediaries) headrest mountable video systems embodying one or more of the Patent's claims in this Judicial District and elsewhere, including, for example, the DVD72HR video system.

10. Upon information and belief, FORJ's infringement of the '274 Patent has been, and continues to be, willful, deliberate, intentional and without color of right.

11. Upon information and belief, FORJ's willful infringement of the '274 Patent will continue unless permanently enjoined.

12. Audiovox has suffered and will continue to suffer irreparable harm by reason of FORJ's infringement of the '274 Patent, including, *inter alia*, lost profits and the erosion of Audiovox's statutory right to exclude others from practicing the claimed invention.

13. Audiovox is entitled to all damages adequate to fully compensate Audiovox for FORJ's willful infringement of the '274 Patent.

Count II: FORJ's Infringement Of The '762 Patent

14. Upon information and belief, Christopher J. Vitito ("Vitito") is the legal owner by assignment of the '762 Patent, a copy of which is attached hereto as Exhibit B. The '762 Patent, entitled "Overhead Console Having Flip-Down Monitor", was duly and lawfully issued by the U.S. Patent and Trademark Office July 7, 1998. Audiovox is the exclusive licensee of the '762 Patent, having acquired from Vitito all substantial rights in the Patent, including the exclusive right to enforce the '762 Patent against any and all infringers.

15. Audiovox markets and sells, throughout the United States, overhead DVD players embodying the claimed invention of the '762 Patent through its wholly owned subsidiary, Audiovox Electronics. All profits from Audiovox Electronics' sales of overhead DVD players embodying the patented invention flow to Audiovox.

16. Upon information and belief, FORJ has infringed and continues to infringe (directly, indirectly, contributorily and/or by inducement) the '762 Patent by making, using, importing, offering to sell and/or selling (directly or through intermediaries) overhead consoles having a flip down monitor embodying one or more of the Patent's claims in this Judicial District and elsewhere, including, for example, the DVD90FD Video System.

17. Upon information and belief, FORJ's infringement of the '762 Patent has been, and continues to be, willful, deliberate, intentional and without color of right.

18. Upon information and belief, FORJ's willful infringement of the '762 Patent will continue unless permanently enjoined.

19. Audiovox has suffered and will continue to suffer irreparable harm by reason of FORJ's infringement of the '762 Patent, including, *inter alia*, lost profits and the erosion of Audiovox's statutory right to exclude others from practicing the claimed invention.

20. Audiovox is entitled to all damages adequate to fully compensate Audiovox for FORJ's willful infringement of the '762 Patent.

DEMAND FOR JURY TRIAL

21. Plaintiffs request a jury trial under Fed. R. Civ. P. 38 on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

A. FORJ has infringed claims of the '274 and '762 Patents, literally and/or under the doctrine of equivalents;

B. FORJ and its respective agents, servants, officers, directors, employees and all persons acting in concert with them, directly or indirectly, be preliminarily and permanently enjoined from infringing, inducing others to infringe, or contributing to the infringement of the '274 and '762 Patents;

C. FORJ be ordered to account for and pay to Audiovox the damages to which Audiovox is entitled as a consequence of FORJ's infringement of the '274 and '762 Patents in an amount no less than a reasonable royalty for the use made of the invention by FORJ;

D. That such damages be trebled under 35 U.S.C. § 284 by reason of FORJ's willful,

deliberate and intentional infringement of the '274 and '762 Patents;

E. That Audiovox be awarded prejudgment interest and post-judgment interest on any damages awarded by reason of FORJ's infringement of the '274 and '762 Patents;

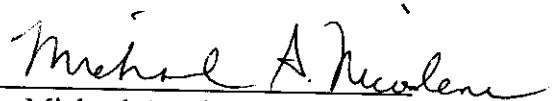
F. That this case be found "exceptional", and that Audiovox be awarded costs, disbursements and attorneys' fees in accordance with the provisions of 35 U.S.C. § 285; and

G. That Audiovox be awarded such other and further relief as this Court may deem just, proper and equitable.

Dated: February 18, 2009

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