

**FILED**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
(Alexandria Division)**

2011 MAR -8 P 1:31

ICEBERG INDUSTRIES, LLC, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 SOUNDHOUND, INC., )  
 )  
 Defendant. )

CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

NORFOLK DIVISION  
Civil Action No. 2:11CV149  
MSD/FBS

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Iceberg Industries, LLC ("Iceberg"), by counsel, complains of defendant, SoundHound, Inc. ("SoundHound"), as follows:

**NATURE OF LAWSUIT**

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

**PARTIES AND PATENTS**

3. Iceberg is a company organized and existing under the laws of the Commonwealth of Virginia with a principal place of business at 10332 Main Street, Box 335, Fairfax, Virginia 22030. Iceberg is in the business of developing signal and media recognition technology. Its principals, Stephen Kenyon and Laura Simkins, have been developing signal recognition technology for over 30 years, and have been developing media identification technology for over 25 years.

4. Iceberg owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 7,174,293 ("the '293 patent") entitled "Audio Identification System and Method," which issued on February 6, 2007. A copy of the '293 patent is attached as Exhibit A and is incorporated herein by reference.

5. Iceberg also owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 7,783,489 ("the '489 patent") entitled "Audio Identification System and Method," which issued on August 24, 2010. The '489 patent was based on a continuation of the '293 patent application. A copy of the '489 patent is attached as Exhibit B and is incorporated herein by reference.

6. Iceberg previously enforced the '289 and '489 patents in a suit in this district against one of SoundHound's competitors, Shazam Entertainment, Ltd. That suit – *Iceberg Industries, LLC v. Shazam Entertainment, Ltd.*, Civil Action No. 1:10cv755 (GBL/IDD) (E.D. Va.) – was settled and dismissed pursuant to a stipulated judgment entered on February 28, 2011.

7. SoundHound is a corporation organized under the laws of the State of California with a principal place of business at 1731 Technology Drive, Suite 700, San Jose, California 95110. SoundHound was formerly known as Melodis Corporation.

8. SoundHound has committed acts of infringement in this judicial district and does regular business in this judicial district, including providing the products and services accused of infringement in this judicial district. This Court has personal jurisdiction over SoundHound based on its regular and systematic marketing, distribution and sale of the products and services accused of infringement in the Commonwealth of Virginia, including in this judicial district.

**VENUE**

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(d) and 1400(b).

**SOUNDHOUND'S ACTS OF PATENT INFRINGEMENT**

10. SoundHound has infringed one or more claims of the '293 patent (including, but not limited to, claims 65-68, 73-76, 78-82, 87, 88, 106-110, 112, 113-115, 120 and 121) by, among other activities, hosting, providing, using, selling, offering for sale and/or importing audio recognition applications, products and services that employ the inventions of the claims of the '293 patent, including the SoundHound (free) and SoundHound Infinity applications, products and services. SoundHound has also contributed to and induced infringement by others (such as its customers, users, resellers, wireless service providers and business partners in this judicial district and throughout the United States) by knowing and intentionally aiding, assisting and encouraging their infringement.

11. SoundHound has infringed one or more claims of the '489 patent (including, but not limited to, claims 5-7, 14, 15 and 18) by, among other activities, hosting, providing, using, selling, offering for sale and/or importing audio recognition applications, products and services that employ the inventions of the claims of the '489 patent, including the SoundHound (free) and SoundHound Infinity applications, products and services. SoundHound has also contributed to and induced infringement by others (such as its customers, users, resellers, wireless service providers and business partners in this judicial district and throughout the United States) by knowingly and intentionally aiding, assisting and encouraging their infringement.

12. SoundHound's infringement has injured Iceberg, and Iceberg is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

13. SoundHound has engaged in the activities described above despite an objectively high likelihood that its actions constitute infringement of Iceberg's patent rights.

14. SoundHound's infringement has injured and will continue to injure Iceberg, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further use, offers for sale and/or sale of Iceberg's technologies that fall within the scope of the claims of the '293 patent and the '489 patent.

15. Iceberg has fully complied with all applicable provisions of 35 U.S.C. § 287.

#### **PRAYER FOR RELIEF**

WHEREFORE, Iceberg asks this Court to enter judgment against SoundHound and against its respective 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 Iceberg for the infringement that has occurred, together with prejudgment interest from the date infringement of the '293 patent began;

B. An award of damages adequate to compensate Iceberg for the infringement that has occurred, together with prejudgment interest from the date infringement of the '489 patent began;

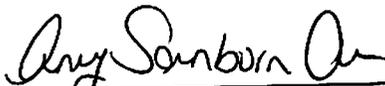
- C. An award to Iceberg of all remedies available under 35 U.S.C. §§ 284 and 285;
- D. A permanent injunction prohibiting further infringement of the '293 patent;
- E. A permanent injunction prohibiting further infringement of the '489 patent;
- F. Such other and further relief as this Court or a jury may deem proper and just.

**JURY DEMAND**

Iceberg demands a trial by jury on all issues so triable.

Respectfully submitted,

Dated: March 8th, 2011



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