

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

AUDIOVOX CORPORATION

Plaintiff,

v.

AVA ENTERPRISES INC. d/b/a BOSS  
AUDIO SYSTEMS

Defendant.

Civil Action No. 2:11-cv-03824-ADS-AKT

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

Plaintiff Audiovox Corporation (“Audiovox”), by its attorneys, Winston & Strawn LLP, for its amended complaint against defendant AVA Enterprises, Inc. (“AVA”), doing business as Boss Audio Systems, alleges and states as follows:

**NATURE OF THE ACTION**

1. Audiovox seeks injunctive relief and damages as a result of AVA’s infringement of U.S. Patent Nos. 7,245,274 (“the ’274 Patent”); 6,899,365 (“the ’365 Patent”); 7,354,091 (“the ’091 Patent”); 5,775,762 (“the ’762 Patent”); 7,548,413 (“the ’413 Patent”); and 7,839,355 (“the ’355 Patent”) (collectively, “the patents-in-suit”).
2. The patents-in-suit address a variety of features relating to in-vehicle entertainment systems such as the DVD players commonly used in automobiles today. The patented features have greatly enhanced the audio-video experience available to passengers traveling the country’s roadways by improving the options for convenience, placement, securability, flexibility, and enjoyment of entertainment systems used in today’s vehicles.

3. Audiovox brought many of the patents-in-suit to AVA's attention. AVA recognized the need for a patent license and engaged in discussions to obtain a license to Audiovox's patents. Despite its known need for such a license, however, AVA ultimately decided to continue manufacturing, using, importing, offering to sell, and/or selling Audiovox's patented technology without Audiovox's authorization to do so.

### **PARTIES**

4. Plaintiff 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.
5. Audiovox owns the patents-in-suit and, through its wholly owned subsidiary, Audiovox Electronics Corporation ("Audiovox Electronics"), markets and sells video systems throughout the United States which embody many of the inventions claimed in those patents.
6. Audiovox Electronics is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 150 Marcus Boulevard, Hauppauge, New York.
7. Defendant AVA is, on information and belief, a corporation organized and existing under the laws of the State of California, with its principal place of business at 3451 Lunar Court, Oxnard, California.
8. Upon information and belief, AVA conducts business under the name Boss Audio Systems.

**JURISDICTION AND VENUE**

9. This Court has subject matter jurisdiction under the provisions of Title 28 United States Code (“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.
10. Upon information and belief, AVA, through its Boss Audio Systems division, has transacted business in this district by using, selling, and/or offering to sell products as described and claimed in the ’274, ’365, ’091, ’762, ’413, and ’355 Patents and/or by conducting other business in this judicial district sufficient to render it subject to jurisdiction in this district.
11. Venue is proper in this Court under Title 28 United States Code §§ 1391 and 1400(b).

**COUNT I: AVA’S INFRINGEMENT OF THE ’274 PATENT**

12. Audiovox realleges and incorporates paragraphs 1-11 as though fully set forth herein.
13. 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.
14. AVA has infringed and continues to infringe the ’274 Patent by making, using, importing, offering to sell, and/or selling (directly or through intermediaries) headrest video/entertainment systems embodying one or more claims of the ’274 Patent in this Judicial District and elsewhere, including, but not limited to, Boss Audio Systems’ HIR7A, HIR8A, HIR9A, and HIR7BGTA DVD player headrest with built-in monitor (“Boss Audio Systems’ DVD Player Headrests”).

15. The Boss Audio Systems' DVD Player Headrests have a built-in DVD player with a pivotable video monitor/display as described in at least claims 11 and 16 of the '274 Patent. AVA's manufacture, use, import, offer for sale, and/or sale of Boss Audio Systems' DVD Player Headrests are acts of direct infringement.
16. AVA's infringement of the '274 Patent has been, and continues to be, willful, deliberate, intentional, and without color of right. Audiovox brought the '274 Patent to AVA's attention by no later than November 11, 2010.
17. AVA's willful infringement of the '274 Patent will continue unless permanently enjoined.
18. Audiovox has suffered and will continue to suffer irreparable harm by reason of AVA's infringement of the '274 Patent, including, *inter alia*, by injury to its business results, prospects, goodwill, and market presence and through the erosion of Audiovox's statutory right to exclude others from practicing the claimed invention.
19. Audiovox has suffered and will continue to suffer monetary damages that are compensable under 35 U.S.C. § 284, and Audiovox is entitled to all damages adequate to fully compensate Audiovox for AVA's willful infringement of the '274 Patent.

**COUNT II: AVA'S INFRINGEMENT OF THE '365 PATENT**

20. Audiovox realleges and incorporates paragraphs 1-19 as though fully set forth herein.
21. Audiovox is the legal owner by assignment of the '365 Patent, a copy of which is attached hereto as Exhibit B. The '365 Patent, entitled "Seat Mountable Entertainment System," was duly and lawfully issued by the U.S. Patent and Trademark Office on May 31, 2005.

22. AVA has infringed and continues to infringe the '365 patent by making, using, importing, offering to sell, and/or selling (directly or through intermediaries) headrest video/entertainment systems embodying one or more claims of the '365 Patent in this Judicial District and elsewhere, including, but not limited to, Boss Audio Systems' DVD Player Headrests.
23. The Boss Audio Systems' DVD Player Headrests have a removable, built-in DVD player with a pivotable video monitor/display as described in at least claims 1 and 22 of the '365 Patent. AVA's manufacture, use, import, offer for sale, and/or sale of Boss Audio Systems' DVD Player Headrests are acts of direct infringement.
24. AVA's infringement of the '365 Patent has been, and continues to be, willful, deliberate, intentional, and without color of right. Audiovox brought the '365 Patent to AVA's attention by no later than November 11, 2010.
25. AVA's willful infringement of the '365 Patent will continue unless permanently enjoined.
26. Audiovox has suffered and will continue to suffer irreparable harm by reason of AVA's infringement of the '365 Patent, including, *inter alia*, by injury to its business results, prospects, goodwill, and market presence and through the erosion of Audiovox's statutory right to exclude others from practicing the claimed invention.
27. Audiovox has suffered and will continue to suffer monetary damages that are compensable under 35 U.S.C. § 284, and Audiovox is entitled to all damages adequate to fully compensate Audiovox for AVA's willful infringement of the '365 Patent.

**COUNT III: AVA'S INFRINGEMENT OF THE '091 PATENT**

28. Audiovox realleges and incorporates paragraphs 1-27 as though fully set forth herein.
29. Audiovox is the legal owner by assignment of the '091 Patent, a copy of which is attached hereto as Exhibit C. The '091 Patent, entitled "Seat Mountable Entertainment System," was duly and lawfully issued by the U.S. Patent and Trademark Office on April 8, 2008.
30. AVA has infringed and continues to infringe the '091 Patent by making, using, importing, offering to sell, and/or selling (directly or through intermediaries) headrest video/entertainment systems embodying one or more claims of the '091 Patent in this Judicial District and elsewhere, including, but not limited to, Boss Audio Systems' DVD Player Headrests.
31. The Boss Audio Systems' DVD Player Headrests have a removable, built-in DVD player with a pivotable video monitor/display as described in at least claim 34 of the '091 Patent. AVA's manufacture, use, import, offer for sale, and/or sale of Boss Audio Systems' DVD Player Headrests are acts of direct infringement.
32. AVA's infringement of the '091 Patent will continue unless permanently enjoined.
33. Audiovox has suffered and will continue to suffer irreparable harm by reason of AVA's infringement of the '091 Patent, including, *inter alia*, by injury to its business results, prospects, goodwill, and market presence and through the erosion of Audiovox's statutory right to exclude others from practicing the claimed invention.
34. Audiovox has suffered and will continue to suffer monetary damages that are compensable under 35 U.S.C. § 284, and Audiovox is entitled to all damages adequate to fully compensate Audiovox for AVA's infringement of the '091 Patent.

**COUNT IV: AVA'S INFRINGEMENT OF THE '762 PATENT**

35. Audiovox realleges and incorporates paragraphs 1-34 as though fully set forth herein.
36. Audiovox is the legal owner by assignment of the '762 Patent, a copy of which is attached hereto as Exhibit D. The '762 Patent, entitled "Overhead Console Having Flip-Down Monitor," was duly and lawfully issued by the U.S. Patent and Trademark Office on July 7, 1998.
37. AVA has infringed and continues to infringe the '762 Patent by making, using, importing, offering to sell, and/or selling (directly or through intermediaries) overhead display/consolas for vehicles embodying one or more claims of the '762 Patent in this Judicial District and elsewhere, including, but not limited to, Boss Audio Systems' BV12.1BGT, BV11.2BGT, BV11.2BA, BV11.2TA, BV11.2GA, BV10.4BA, BV10.4TA, BV10.4GA, BV9.2BA, BV9.2TA, BV9.2GA DVD player overhead display ("Boss Audio Systems' DVD Player Overhead Displays").
38. The Boss Audio Systems' DVD Player Overhead Displays have an elongated console housing which is attached to an interior ceiling of a vehicle, a display/monitor, a compartment for storing a DVD player and DVD controls, and connectors for connecting the DVD player to the display/monitor as described in at least claim 1 of the '762 Patent. AVA's manufacture, use, import, offer for sale, and/or sale of Boss Audio Systems' DVD Player Overhead Displays are acts of direct infringement.
39. AVA's infringement of the '762 Patent has been, and continues to be, willful, deliberate, intentional, and without color of right. Audiovox brought the '762 Patent to AVA's attention on multiple occasions before the lawsuit.

40. AVA's willful infringement of the '762 Patent will continue unless permanently enjoined.
41. Audiovox has suffered and will continue to suffer irreparable harm by reason of AVA's infringement of the '762 Patent, including, *inter alia*, by injury to its business results, prospects, goodwill, and market presence and through the erosion of Audiovox's statutory right to exclude others from practicing the claimed invention.
42. Audiovox has suffered and will continue to suffer monetary damages that are compensable under 35 U.S.C. § 284, and Audiovox is entitled to all damages adequate to fully compensate Audiovox for AVA's willful infringement of the '762 Patent.

**COUNT V: AVA'S INFRINGEMENT OF THE '413 PATENT**

43. Audiovox realleges and incorporates paragraphs 1-42 as though fully set forth herein.
44. Audiovox is the legal owner by assignment of the '413 Patent, a copy of which is attached hereto as Exhibit E. The '413 Patent, entitled "Cover For A Vehicle Media Device," was duly and lawfully issued by the U.S. Patent and Trademark Office on June 16, 2009.
45. AVA has infringed and continues to infringe the '413 patent by making, using, importing, offering to sell, and/or selling (directly or through intermediaries) covers for vehicle media devices embodying one or more claims of the '413 Patent in this Judicial District and elsewhere, including, but not limited to, Boss Audio Systems' DVD Player Overhead Displays and BV12.1F, BV11.2F, BV10.4FB, BV10.4FT, BV10.4FG, BV9.2FB, BV9.2FT, BV9.2FG overhead displays (collectively, "Boss Audio Systems' Overhead Display Products").



46. The Boss Audio Systems' Overhead Display Products have a console housing a media device (*e.g.*, DVD player), a cover having a through-hole for receiving the console and for covering the back of the display/monitor, and snaps for coupling the cover to the console as described in at least claims 1, 13, and 23 of the '413 Patent. AVA's manufacture, use, import, offer for sale, and/or sale of Boss Audio Systems' Overhead Display Products are acts of direct infringement.
47. AVA's infringement of the '413 Patent will continue unless permanently enjoined.
48. Audiovox has suffered and will continue to suffer irreparable harm by reason of AVA's infringement of the '413 Patent, including, *inter alia*, by injury to its business results, prospects, goodwill, and market presence and through the erosion of Audiovox's statutory right to exclude others from practicing the claimed invention.
49. Audiovox has suffered and will continue to suffer monetary damages that are compensable under 35 U.S.C. § 284, and Audiovox is entitled to all damages adequate to fully compensate Audiovox for AVA's infringement of the '413 Patent.

**COUNT VI: AVA'S INFRINGEMENT OF THE '355 PATENT**

50. Audiovox realleges and incorporates paragraphs 1-49 as though fully set forth herein.
51. Audiovox is the legal owner by assignment of the '355 Patent, a copy of which is attached hereto as Exhibit F. The '355 Patent, entitled "Vehicle Display Device Having A Wireless Transmitter," was duly and lawfully issued by the U.S. Patent and Trademark Office on November 23, 2010.
52. AVA has infringed and continues to infringe the '355 Patent either directly and/or contributorily by making, using, importing, offering to sell and/or selling (directly or through intermediaries) vehicle display devices having wireless transmitters embodying

one or more claims of the '355 Patent in this Judicial District and elsewhere, including, but not limited to, Boss Audio Systems' BV7HIR headrest monitor.

53. The Boss Audio Systems' BV7HIR headrest monitor has a housing with a rear portion mounted to a seat, a face plate that surrounds the display is located outside of the seat, a display device that is coupled to a media source, and a wireless transmitter that transmits audio signals to wireless headphones as described in at least claims 1 and 38 of the '355 Patent. The Boss Audio Systems' BV7HIR headrest monitor is not suitable for substantial noninfringing uses and is especially made and/or especially adapted for use in an infringement of the '355 patent. AVA's manufacture, use, import, offer for sale, and/or sale of Boss Audio Systems' BV7HIR headrest monitor are acts of direct and/or contributory infringement.
54. AVA's infringement of the '355 Patent will continue unless permanently enjoined.
55. Audiovox has suffered and will continue to suffer irreparable harm by reason of AVA's infringement of the '355 Patent, including, *inter alia*, by injury to its business results, prospects, goodwill, and market presence and through the erosion of Audiovox's statutory right to exclude others from practicing the claimed invention.
56. Audiovox has suffered and will continue to suffer monetary damages that are compensable under 35 U.S.C. § 284, and Audiovox is entitled to all damages adequate to fully compensate Audiovox for AVA's infringement of the '355 Patent.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment as follows:

A. AVA has infringed claims of the '274, '365, '091, '762, '413, and '355 Patents literally and/or under the doctrine of equivalents;

B. AVA 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 the '274, '365, '091, '762, '413, and '355 Patents;

C. AVA be ordered to account for and pay to Audiovox the damages to which Audiovox is entitled as a consequence of AVA's infringement of the '274, '365, '091, '762, '413, and '355 Patents in an amount no less than a reasonable royalty for the use made of the invention by AVA;

D. That such damages be trebled under 35 U.S.C. § 284 by reason of AVA's willful, deliberate, and intentional infringement of the '274, '365, and '762 Patents;

E. That Audiovox be awarded prejudgment interest and post-judgment interest on any damages awarded by reason of AVA's infringement of the '274, '365, '091, '762, '413, and '355 Patents;

F. That this case be found "exceptional", and that Audiovox be awarded costs, disbursements, and attorney's 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: November 3, 2011

Respectfully submitted,

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: November 3, 2011

Respectfully submitted,

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