

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

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AFFINITY LABS OF TEXAS, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 1:12-CV-00205-LY
CLEAR CHANNEL BROADCASTING,)	
INC.; CUMULUS MEDIA, INC.; AND)	
UNIVISION INTERACTIVE MEDIA, INC.)	
)	
Defendants.)	JURY TRIAL DEMANDED
)	
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SECOND AMENDED COMPLAINT

Plaintiff Affinity Labs of Texas, LLC files this Amended Complaint against Defendants Clear Channel Broadcasting, Inc., Cumulus Media, Inc., and Univision Interactive Media, Inc. Plaintiff Affinity Labs of Texas, LLC alleges:

PARTIES

1. Plaintiff Affinity Labs of Texas, LLC (“Affinity”) is a Texas limited liability company having offices at 4131 Spicewood Springs, Suite N-10, Austin, TX 78759.
2. Upon information and belief, Defendant Clear Channel Broadcasting, Inc. (“Clear Channel Broadcasting”) is a Nevada Corporation its principal place of business at 200 E Basse Rd., San Antonio, TX 78209.
3. Upon information and belief, Defendant Cumulus Media Inc. (“Cumulus”) is a Delaware Corporation with its principal place of business at 3280 Peachtree Road, NW Suite 2300, Atlanta, Georgia 30305.

4. Upon information and belief, Univision Interactive Media, Inc. (“Univision”) is a Delaware Corporation with its principal place of business at 605 Third Ave., 12th Floor, New York, NY 10158.

JURISDICTION AND VENUE

5. These claims arise under the Patent Laws of the United States, 35 U.S.C. §101 *et seq.*, in that each is a claim for infringement of a United States patent. The jurisdiction of this Court is founded upon 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendants, in part, because Defendants have conducted business in this District, have committed, contributed to, and/or induced acts of patent infringement in this District, and continue to commit acts of infringement in this District. Furthermore, Clear Channel Broadcasting has a principal place of business in this District.

7. Venue within this district is proper under 28 U.S.C. §§ 1391(b)-(c) and 1400(b). There is also no clearly more convenient venue.

INFRINGEMENT OF THE '379 PATENT

8. The allegations of paragraphs 1-9 are incorporated herein by reference.

9. Plaintiff Affinity is the sole owner by assignment of United States Patent No. 7,970,379 (“the ’379 Patent”), which issued on June 28, 2011, and is entitled “Providing Broadcast Content.” A copy of the ’379 Patent is attached hereto as Exhibit A.

10. Defendants have infringed and, if not enjoined, will continue to infringe one or more claims of the ’379 Patent, by performing, without authority, one or more of the following acts: (a) making, using, offering for sale, or selling within the United States the invention as claimed in one or more claims of the ’379 Patent, in violation of 35 U.S.C. § 271(a); (b) importing into the United States the invention as claimed in one or more claims of the ’379

Patent, in violation of 35 U.S.C. § 271(a); (c) inducing infringement of one or more claims of the '379 Patent, in violation of 35 U.S.C. § 271(b); and/or (d) contributing to the infringement of one or more claims of the '379 Patent, in violation of 35 U.S.C. § 271(c) (the "Acts of Infringement of the '379 Patent").

11. Defendants' Acts of Infringement of the '379 Patent include the manufacturing, using, marketing, offering for sale, selling, and/or importing of the iHeartRadio platform.

12. Defendant Univision's Acts of Infringement of the '379 Patent also include the manufacturing, using, marketing, offering for sale, selling, and/or importing of the Univision Radio App platform.

13. Upon information and belief, Defendants will continue to infringe the '379 Patent unless enjoined by this Court.

14. As a result of the Defendants' infringement, Affinity has suffered and will continue to suffer damages.

15. Affinity is entitled to recover from Defendants the damages sustained by Affinity as a result of Defendants' wrongful acts in an amount subject to proof at trial.

WILLFUL INFRINGEMENT OF THE '379 PATENT

16. Despite having actual knowledge of the '379 Patent, Clear Channel Broadcasting has knowingly and willfully made, used, offered for sale, sold, and/or imported the iHeartRadio platform that infringes the '379 Patent, and has done so after receiving written notification (on or about August 10, 2011) of the '379 Patent and of Clear Channel Broadcasting's infringement thereof, and Clear Channel Broadcasting has taken these actions without authorization from Affinity, entitling Affinity to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38 and the Seventh Amendment of the United States Constitution, Affinity hereby demands a jury trial on all issues triable to a jury.

REQUEST FOR RELIEF

WHEREFORE, Affinity petitions this Court and requests that a judgment be entered and relief be granted as follows:

A. Declaring that Defendants have infringed the '379 Patent as alleged herein (directly, by inducement, and/or contributorily);

B. Declaring that Clear Channel Broadcasting's infringement of the '379 Patent is willful;

C. Permanently enjoining, restraining, and prohibiting Defendants, and any party acting through, for, or in concert with Defendants from further infringing (directly, by inducement, or contributorily) any claim of the '379 Patent;

D. Awarding to Affinity such monetary or compensatory damages as may be found or deemed adequate to fully compensate Affinity for Defendants' Acts of Infringement of the '379 Patent and/or any other injury suffered by Affinity due to Defendants' acts of infringement of the '379 Patent;

E. Awarding to Affinity treble damages, pursuant to 35 U.S.C. § 284, and based on Clear Channel Broadcasting's willful infringement of the '379 Patent;

F. Declaring this case exceptional and awarding to Affinity its attorneys' fees, pursuant to 35 U.S.C. § 285;

G. Awarding to Affinity its costs; and

H. Awarding to Affinity such other, further, or general relief as this Court may deem proper.

Respectfully submitted,

Dated: September 18, 2012

By: /s/ Thomas W. Sankey

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