

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FRONT ROW TECHNOLOGIES, LLC,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Case No. 3:12-CV-1639-K
	§	
MLB ADVANCED MEDIA, L.P.,	§	
MERCURY RADIO ARTS, INC.,	§	
d/b/a ‘THE GLENN BECK PROGRAM,	§	
INC.’, GBTV, LLC, & PREMIERE	§	
RADIO NETWORKS, INC.	§	
	§	
Defendants.	§	

**PLAINTIFF’S FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT AND JURY DEMAND**

Plaintiff Front Row Technologies, LLC (“Front Row Technologies”) files this Complaint for patent infringement against Defendants MLB Advanced Media, L.P., Mercury Radio Arts, Inc., d/b/a “The Glenn Beck Program, Inc.”, GBTV, LLC, and Premiere Radio Networks, Inc. (collectively the “Defendants”), and alleges as follows:

I. PARTIES

1. Plaintiff Front Row Technologies is a New Mexico limited liability company having its principal place of business at 117 Bryn Mawr Drive SE, Albuquerque, New Mexico 87106.

2. Defendant MLB Advanced Media, L.P. is a limited partnership organized and existing under the laws of the State of New York, with its principal place of business located at 245 Park Avenue, Floor 34, New York, New York 10167. MLB Advanced Media, L.P. is a resident of New York, which engages in business in various states throughout the United States.

This action arises, in part, out of the MLB Advanced Media, L.P.'s business that is directed to and conducted within the State of Texas. MLB Advanced Media, L.P. ("MLB-AM") is in the business of broadcasting entertainment, news, and sporting events through electronic and wireless instrumentalities, the sale of electronic software for broadcasting sporting events through electronic and wireless instrumentalities, and/or the sale of electronic software for broadcasting sporting events through electronic and wireless instrumentalities in interstate commerce. MLB-AM engages in such business in the State of Texas; and more specifically, MLB-AM has entered into a contractual arrangement with one or more of the other named defendants to provide such services for GBTV.¹ While Defendant MLB-AM does not have a registered agent designated in the State of Texas, it can be served with process through the Secretary of the State of Texas. FED. R. CIV. PRO. 4(h)(1)(A).

3. Defendant Mercury Radio Arts, Inc., d/b/a "The Glenn Beck Program, Inc.", is a New York corporation with its principal place of business located at 1133 Avenue of the Americas, 34th Floor, New York, New York 10036. While it is a New York corporation, Mercury Radio Arts, Inc. ("Mercury") engages in business throughout the United States. However, this action arises, in part, out of Mercury's business, which has been and continues to be conducted in as well as directed to the State of Texas. Mercury is in the business of broadcasting entertainment, news, and radio shows throughout the United States. Since at least 2012, Mercury has maintained a Dallas office.² Defendant Mercury can be served with process through its registered agent CSC – Lawyers Incorporating Service Company, 211, E. 7th Street,

¹ See *Terms of Use Agreement*, attached hereto as Exhibit "B."

² "Founded in 2002, Mercury has a full time staff of over 100 employees and is based in New York, NY and Dallas, Texas." <http://www.glennbeck.com/content/program/>. April 27, 2012 Printout of Webpage, attached hereto as Exhibit "C."

Suite 620, Austin, Texas 78701-3218; or its Chief Executive Officer Glenn L. Beck, who resides at 2208 Vaquero Estates Boulevard, Westlake, Tarrant County, Texas 76262, or at his primary place of business GBTV Studios at The Studios at Las Colinas, 6301 Riverside Drive, Irving, Dallas County, Texas 75039.

4. Defendant GBTV, LLC (“GBTV”) is a New York limited liability corporation with its principal place of business located at 1133 Avenue of the Americas, 34th Floor, New York, New York 10036. Defendant Mercury is the principal of GBTV. Like its principal, GBTV engages in business throughout the United States. This action arises, in part, out of GBTV’s business, which has been and continues to be conducted in as well as directed to the State of Texas. GBTV is in the business of video production and content for broadcasting entertainment and news shows throughout the United States. Since at least 2012, GBTV has maintained a Dallas office at The Studios at Las Colinas, 6301 Riverside Drive, Irving, Dallas County, Texas 75039.³ GBTV can be served with process through its principal Defendant Mercury, whose registered agent in Texas is CSC – Lawyers Incorporating Service Company, 211, E. 7th Street, Suite 620, Austin, Texas 78701-3218; or its Director Glenn L. Beck, who resides at 2208 Vaquero Estates Boulevard, Westlake, Tarrant County, Texas 76262, offices at GBTV Studios at The Studios at Las Colinas, 6301 Riverside Drive, Irving, Dallas County, Texas 75039.

5. Defendant Premiere Radio Networks, Inc. (“Premiere”) is a Delaware corporation with its principal place of business located at 200 E. Basse Road, San Antonio, Texas 78209.

³ “Beck said, ‘I have come to know and respect the people of Texas and could not be more excited about GBTV studios – the future home of GBTV and a multiplatform destination for the fusion of entertainment and enlightenment. We are proud to become part of the Dallas-Fort Worth area and are eager to become good neighbors and members of the local community.’” <http://www.nbcdfw.com/news/local/Glenn-Beck-to-Build-Studios-in-Las-Colinas-135688193.html>. May 21, 2012 Printout of Webpage, attached hereto as Exhibit “D.”

Defendant Premiere engages in business throughout the United States. This action, however, arises, in part, out of Premiere's business, which has been and continues to be conducted in as well as directed to the State of Texas. Premiere is in the business of broadcasting and promotion throughout the United States. Defendant Premiere can be served with process through its registered agent C T Corporation Systems, 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201-4234.

II. JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. The Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271 *et seq.*, and 28 U.S.C. §§ 1331 and 1338(a).

7. Personal jurisdiction exists generally over the Defendants because each Defendant has sufficient minimum contacts with the forum as a result of business regularly conducted within the State of Texas. Personal jurisdiction also exists specifically over the Defendants as a result of, at least, the use of Defendants' GBTV and/or Mercury's Dallas County offices at The Studios of Las Colinas, which is the broadcast venue contemplated and covered by the infringed claims of Plaintiff's patent. In addition, Defendants, individually and collectively, placed instrumentalities, provided services, provided applications, and/or provided funding or sponsorship for systems and services that practice the claimed invention within the stream of commerce directed at the State of Texas, and by committing the tort of patent infringement within the State of Texas.

8. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 28 U.S.C. § 1400(b).

III. INFRINGEMENT OF UNITED STATES PATENTS

9. Plaintiff Front Row Technologies is the owner of all rights, title and interest in and under United States Patent No. 8,090,321 ("321 Patent"), titled "Transmitting Sports and

Entertainment Data to Wireless Hand Held Devices over a Telecommunications Network,” which duly and legally issued on January 3, 2012. A true and correct copy of the ’321 patent is attached hereto as **Exhibit A**.

10. The ’321 patent is valid and enforceable.

11. All requirements under 35 U.S.C. § 287 have been satisfied with respect to the ’321 patent.

IV. CLAIM ONE - INFRINGEMENT OF THE ’321 PATENT

12. Front Row Technologies incorporates by reference paragraphs 1-10 above as though fully repeated herein.

13. Defendant MLB-AM has been and continues to directly infringe, literally and/or under the doctrine of equivalents, the ’321 patent by making, using, offering for sale, selling, and/or importing in or into the United States, without authority, instrumentalities and/or services that practice one or more claims of the ’321 patent in violation of § 271(a), including, but not limited to the following: GBTV.Com, GBTV Plus, GBTV Properties, At Bat 12, and MLB.TV.

14. Defendants Mercury and GBTV (“Beck Defendants”) have been and continue to directly infringe, literally and/or under the doctrine of equivalents, the ’321 patent by making, using, offering for sale, selling, and/or importing in or into the United States, without authority, instrumentalities and/or services that practice one or more claims of the ’321 patent in violation of § 271(a), including, but not limited to the following: GBTV.Com, GBTV Plus, and GBTV Properties.

15. Defendant Premiere has been and continues to directly infringe, literally and/or under the doctrine of equivalents, the ’321 patent by making, using, offering for sale, selling, and/or importing in or into the United States, without authority, instrumentalities and/or services that practice one or more claims of the ’321 patent in violation of § 271(a), including, but not

limited to the following: GBTV.Com, GBTV Plus, GBTV Properties, other Beck defendants' web properties, and any related advertisement or sponsorships.

16. The various instrumentalities and/or services made, used, offered for sale, or sold by Defendants, which are listed above, allow users to access live programming, which necessarily includes advertisement and sponsorship content, such as: (i) Glenn Beck's Live Daily Show; (ii) Glenn Beck's Live Radio Program; (iii) live-game video of Major League Baseball games, (iv) access scores and stats, (v) multi-game viewing options, (vi) live-game picture in picture, (vii) live-game highlights, and (viii) live-game DVR functionality. Such services are available over, at least, WiFi 3G and 4G networks; and utilize various mobile devices, including, but not limited to, iOS, which is the mobile operating system utilized by various Apple devices, as well as Android devices.

17. Upon information and belief, Defendants practice all the steps of one or more of the claims of the '321 patent either alone or as the "mastermind" directing or controlling the actions and/or participation of each other defendant and/or any third parties.

18. Defendants have at no time, either expressly or impliedly, been licensed under the '321 patent.

19. Plaintiff Front Row Technologies has no adequate remedy at law against Defendants' acts of patent infringement. Unless Defendants are permanently enjoined from their unlawful and willful infringement of the '321 patent, Front Row Technologies will suffer irreparable harm.

20. As a direct and proximate result of Defendants' acts of patent infringement, Front Row Technologies has been and continues to be injured, and has sustained and will continue to sustain substantial damages. Under 35 U.S.C. §281, Plaintiff Front Row Technologies shall have

a remedy for Defendants' infringement of the '321 patent by virtue of this lawsuit, and shall be entitled to an award of damages adequate to compensate for Defendants' infringement of the '321 Patent; but in no event, less than a reasonable royalty for the use and/or sale of its invention made by Defendants, together with interest and costs as fixed by the court under 35 U.S.C. §284.

21. Plaintiff Front Row Technologies has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute demonstrate an exceptional case within the meaning of 35 U.S.C. § 285, and therefore, Plaintiff Front Row Technologies is entitled to recover its reasonable and necessary attorneys' fees, costs, and expenses.

V. PRAYER FOR RELIEF

Plaintiff Front Row Technologies, LLC respectfully requests that judgment be entered in its favor against Defendants MLB Advanced Media, L.P., Mercury Radio Arts, Inc., GBTV, LLC, and Premiere Radio Networks, Inc.; and respectfully requests that this Court grant it the following relief:

- a) Declare Plaintiff Front Row Technologies, LLC exclusively owns the '321 patent;
- b) Declare the '321 patent is valid and enforceable;
- c) Declare that Defendants MLB Advanced Media, L.P., Mercury Radio Arts, Inc., GBTV, LLC, and Premiere Radio Networks, Inc. are liable for past and present direct infringement, both literally and under the doctrine of equivalents, of the '321 patent;
- d) Award damages to Front Row Technologies, LLC to which it is entitled for Defendants' infringement of the '321 patent;
- e) Enter a preliminary, and thereafter, permanent injunction against Defendants MLB Advanced Media, L.P., Mercury Radio Arts, Inc., GBTV, LLC, and Premiere Radio Networks, Inc. for their acts of direct infringement of the '321 patent;

- f) Award Front Row Technologies, LLC its expenses, costs, and attorneys' fees pursuant to 35 U.S.C. § 285;
- g) Award interest on Front Row Technologies, LLC's damages as well as the costs incurred in pursuing this action; and
- h) Such other relief as the Court deems just and proper.

VI. JURY DEMAND

In accordance with Federal Rules of Civil Procedure 38 and 39, Plaintiff Front Row Technologies, LLC asserts its rights under the Seventh Amendment of the United States Constitution and demands a trial by jury on all issues.

Respectfully submitted:

By: /s/ Michael W. Shore

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