

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DIGIMEDIA HOLDINGS GROUP, LLC,

Plaintiff,

v.

CC MEDIA HOLDINGS, INC.,

Defendant.

CIVIL ACTION NO.:

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff DigiMedia Holdings Group, LLC, by and through its attorneys, as and for its Complaint against Defendant CC Media Holdings, Inc., alleges the following:

PARTIES

1. Plaintiff DigiMedia Holdings Group, LLC (“DigiMedia”) is a limited liability company organized and existing under the laws of the state of Delaware and may be served through its registered agent Business Filings Incorporated, 108 West 13th Street, Wilmington, DE 19801.

2. On information and belief, Defendant CC Media Holdings, Inc. (“CC Media”) is a Delaware corporation, with its principal place of business located at 200 East Basse Road, San Antonio, Texas 78209. On information and belief, Defendant CC Media may be served through its registered agent: The Corporation Trust Company, Corporation Trust Center, 1209 Orange St. Wilmington, DE 19801.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject matter

jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over the Defendant because it is incorporated in the State of Delaware and because it regularly and systematically conducts and transacts business within the State of Delaware. Defendant's business includes, but is not necessarily limited to, owning and operating radio stations and offering for sale material or products, including advertising, to companies, individuals, and other entities located in the State of Delaware.

5. On information and belief, Defendant CC Media does business through a corporate division under the name Clear Channel Media & Entertainment, and Defendant CC Media operates approximately 840 radio stations, including station WSDS broadcasting from Dover, DE, station WRDX broadcasting from Smyrna, DE, station WILM broadcasting from Wilmington, DE, station WDOV broadcasting from Dover, DE, and station WWTX broadcasting from Wilmington, DE. In addition, upon information and belief, Defendant CC Media also owns additional radio stations that broadcast into Delaware from nearby locations, including at least six stations broadcasting from Pennsylvania, and eleven more broadcasting from Maryland.

6. Venue is proper in this district pursuant to 28 U.S.C. §§1391(b), (c) and 1400(b).

BACKGROUND OF THE DIGIMEDIA PATENTS

7. On May 13, 1997, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 5,629,867 ("the '867 patent") entitled "Selection and Retrieval of Music from a Digital Database." On June 5, 2012, the United States Patent and Trademark Office duly and legally issued a Reexamination Certificate confirming the validity of claims 1-10 in original or amended form. A true and correct copy of the '867 patent and Reexamination Certificate is

attached as Exhibit A.

8. On September 15, 1998, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,809,246 (“the `246 patent”) entitled “Selection and Retrieval of Music from a Digital Database.” On July 10, 2012, the United States Patent and Trademark Office duly and legally issued a Reexamination Certificate confirming the validity of claims 1-9, 12-13, 15-16, 20, 22, 23, 25, 26, and 28-29 in original or amended form. A true and correct copy of the `246 patent and Reexamination Certificate is attached as Exhibit B.

9. DigiMedia is the owner by assignment of all right, title, and interest in and to the `867 and `246 patents (collectively, the “DigiMedia patents”), with full and exclusive right to bring suit to enforce these patents, including the right to bring suit for past, present, and future infringement.

10. The DigiMedia patents relate generally to a method and system for operating radio stations wherein a digital database stores music that is programmed, played and broadcast by the radio stations.

BACKGROUND OF THE SHIFT TO THE DIGIMEDIA TECHNOLOGY IN THE RADIO INDUSTRY

11. Prior to the invention set forth in the DigiMedia patents, operation of a music-based radio station was a cumbersome and expensive process. As pointed out in the specification of the DigiMedia patents: “In a typical prior art radio station environment, the disks to be played and broadcast are located and retrieved from a CD musical library. The disks are then loaded into a CD player, the music cued to play, and subsequently the disks are returned to the library after play, actions which require time, labor, money and space.” `867 Patent, Col. 1, ll. 20-26.

12. Similarly, in an NAB Engineering Handbook from 2007, an article entitled “Radio Station Automation, Networks, and Audio Storage” noted with respect to prior art cart systems: “their dependency on extensive mechanical transports made them high-maintenance devices and limited their flexibility. Even the audio quality was hard to maintain due to the number of capstans and tape heads involved. Broadcasters needed newer, higher quality, easier to maintain, more versatile automation systems.” (P. 144).

13. The technology covered by the claims of the DigiMedia patents was a revelation in the radio industry. In an article entitled “Music Delivery Enters Digital Age: Hard-Drive Systems Lead the Way at Radio,” published in Billboard Newspaper on April 12, 1997, pages 71-72, a staff engineer for the National Association of Broadcasters (NAB) stated that in 1997, “there’s certainly an accelerated migration toward all-digital, computer hard-drive-based systems for music storage and delivery at FM and AM stations. It’s not just the better digital quality. With the significantly lower costs for better equipment, a station can have almost all-electronic music delivery with no physical handling of an NAB cartridge, CD, or MiniDisc [MD].” (P. 71). Through utilizing technology described in the DigiMedia patents “[t]he biggest shift in music delivery and storage is to computer hard drives.” (P. 71).

14. The Billboard Newspaper article highlights the major shift that was occurring in the radio industry in 1997 due to the innovative technology of the DigiMedia patents: “Fidelipac in Mount Laurel, N.J., and Audiopak in Winchester, Va., are the last remaining manufacturers of NAB cartridge hardware and software. ‘We see the final handwriting on the wall,’ says David Strode, Fidelipac sales and marketing manager. ‘If we can get a few more years out of the carts, we’ll be amazed.’” (P. 72).

15. The article entitled “Radio Station Automation, Networks, and Audio Storage” from the 2007 NAB Engineering Handbook discusses how the personal computer revolutionized radio station automation, and how “the current state of the art dictates that [storage] will end up on hard disk drives. This technology has made huge advances in capacity, speed, and reliability that have helped propel digital computing systems into the mainstream of nearly all broadcast operations.” (P. 160). In 2007, “the most common storage architecture for automation systems is to use a centralized file server. This is basically just another networked PC with a lot of storage capacity. However, server hardware is usually more powerful with multiple high-speed CPUs, multiple gigabytes of RAM, multiple Gigabit network interface connections, and a large RAID disk array.” (P. 163).

16. Industry participants have also confirmed the widespread adoption of databases and hard drives to store and play music in radio stations across the United States.

COUNT I
(Infringement of the `867 Patent)

17. The allegations in all the paragraphs above are incorporated by reference into Plaintiff’s Count I as fully set forth herein.

18. Upon information and belief, Defendant is infringing or has infringed one or more claims of the `867 patent-in-suit through, among other activities, the use of the claimed technology for storing, selecting, retrieving and broadcasting music over the radio stations that Defendant owns and operates.

19. Upon information and belief, Defendant infringes and/or has infringed one or more claims of the `867 patent-in-suit either literally or under the doctrine of equivalents in violation of 35 U.S.C. § 271.

20. Upon information and belief, Defendant infringes and/or has infringed one or more claims of the `867 patent-in-suit in violation of 35 U.S.C. § 271.

21. Defendant's infringement of one or more claims of the `867 patent-in-suit has injured DigiMedia and will continue to do so unless enjoined by this Court.

COUNT II
(Infringement of the `246 Patent)

22. The allegations in all the paragraphs above are incorporated by reference into Plaintiff's Count II as fully set forth herein.

23. Upon information and belief, Defendant is infringing or has infringed one or more claims of the `246 patent-in-suit through, among other activities, the use of the claimed technology for storing, selecting, retrieving and broadcasting music over the radio stations that Defendant owns and operates.

24. Upon information and belief, Defendant infringes and/or has infringed one or more claims of the `246 patent-in-suit either literally or under the doctrine of equivalents in violation of 35 U.S.C. § 271.

25. Upon information and belief, Defendant infringes and/or has infringed one or more claims of the `246 patent-in-suit in violation of 35 U.S.C. § 271.

26. Defendant's infringement of one or more claims of the `246 patent-in-suit has injured DigiMedia and will continue to do so unless enjoined by this Court.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff DigiMedia requests entry of a judgment against the Defendant, granting relief as follows:

A. Determining Defendant to be liable to DigiMedia for patent infringement of the `867 and `246 patents;

- B. Awarding DigiMedia damages adequate to compensate for the infringement;
- C. If supported by the evidence, increasing the damages up to three times, under authority of 35 U.S.C. § 284;
- D. Permanently enjoining the defendant, its officers, agents, servants, employees, and attorneys, and those persons acting in concert or participation with each defendant, from further infringement of the `867 and `246 patents;
- E. Determining that this is an exceptional case under 35 U.S.C. § 285 and awarding DigiMedia its reasonable attorney fees, costs, and expenses; and
- F. Granting pre-judgment and post-judgment interest and such other and further relief as the Court may find just and equitable.

JURY DEMAND

Plaintiff DigiMedia demands a trial by jury of all issues properly triable by jury in this action.

Respectfully Submitted,

O’KELLY ERNST & BIELLI, LLC

Dated: November 4, 2013

/s/ Sean T. O’Kelly
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**ATTORNEY FOR PLAINTIFF
DIGIMEDIA HOLDINGS GROUP, LLC**