

CONFIDENTIAL BUSINESS INFORMATION - SUBJECT TO PROTECTIVE ORDER

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA WESTERN DIVISION**

BLACK HILLS MEDIA, LLC,

Plaintiff,

v.

SONOS INC.,

Defendant.

Case No. 2:14-CV-00486 SJO (PJWx)

**EXPERT REPORT OF MR. IVAN ZATKOVICH REGARDING INFRINGEMENT
OF U.S. PATENT NOS. 6,757,517, 7,236,739, 7,742,740 and 6,826,283**

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I. INTRODUCTION

1. My name is Ivan Zatkovich. I have been retained by the law firm of Hayes, Messina, Gilman & Hayes LLC (“Hayes Messina”) to investigate and opine on certain issues related to this case and the infringement of U.S. Patent Nos. 6,757,517 (“the ‘517 Patent”), 7,236,739 (“the ‘739 Patent”), 7,742,740 (“the ‘740 Patent”), and 6,826,283 (“the ‘283 Patent”) by the Sonos Defendant. The following is my written report detailing certain subject matter areas and opinions on which I expect to testify in this case.

2. I have been retained to review the ‘517, ‘739, ‘740 and ‘283 Patents, review documents and source code produced by Defendant, examine and, where feasible, test selected accused products of Defendant, and to provide my opinion regarding infringement of the asserted claims of each patent and the understanding of a person having ordinary skill in the art at the time of the inventions claimed in each patent. The details of my investigation and conclusions are set forth below.

II. SUMMARY OF OPINIONS

3. Based on my analysis presented below, I find that Defendant’s accused products contain each element of, and thus infringe, the claims asserted in this case (jointly the “Asserted Claims”):

- claims 6 and 13 of the ‘517 Patent;
- claims 2 and 9 of the ‘739 Patent;
- claim 1 of the ‘740 Patent; and
- claims 6 and 10 of the ‘283 Patent.

4. I also find that even though at least some of the Asserted Claims include embodiments directed to a particular industry, namely home audio entertainment, each of these claims describes novel inventions not found in the others.

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24. The details and results of all of these analyses are set forth in detail bellow in this report and in the accompanying claim charts for the asserted claims.

V. THE ACCUSED PRODUCTS IN THIS CASE

25. The accused products in this case are the Sonos players, bridges, and controllers listed in Exhibit 3 - Sonos Testing Index. The accused products all practice and/or contain or embody the methods and apparatuses taught in the Asserted Claims.

26. Some of the accused devices listed in the complaint have undergone product name changes since first being offered for sale by Sonos, and some of the accused devices have undergone slight modifications in functionality. However, the renamed devices and the modified and discontinued devices remain relevant because they are part of the history of infringement of the Asserted Claims by the Defendant. I have therefore considered such products as the Sonos ZonePlayer 80 & 90 devices and find no material difference in terms of infringement of the Asserted Claims to the current Sonos devices. All 'ZonePlayer' devices, all 'Play' devices, and all 'Connect' devices are designed to have materially the same functionality. The code versions I have reviewed indicate that these devices provide substantially the same functions. This is also confirmed, for example, in the deposition of Jonathan Lang, pg. 51 ln 6-7.

VI. RELEVANT FIELD AND LEVEL OF ORDINARY SKILL IN THE ART

27. It is my opinion that the relevant field with respect to the '517, '739, '740, and '283 Patents is the setup and management of ad hoc wireless networks, along with distribution of media over networks and control of same.

28. The ordinary level of skill in this art is a Bachelor's degree in computer science or electrical engineering or its equivalent and at least 1-2 years of experience in the relevant field, in areas such as computer networking.

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29. In reaching this opinion, I have considered the types of problems encountered in the art, the sophistication of the technology and the education level and professional capabilities of workers in the field. The basis of my familiarity with the level of skill in the art is my years of interaction with large numbers of workers in the field and my knowledge of the technical issues in the field.

VII. SUMMARY OF OPINIONS

A. Infringement of the '517 Patent

30. It is my opinion that Defendant's products (listed in Exhibit 3 - Sonos Testing Index) directly infringe claims 6, and 13 of the '517 Patent as detailed herein.

B. Infringement of the '739 Patent

31. It is my opinion that Defendant's products (listed in Exhibit 3 - Sonos Testing Index) directly infringe claims 2 and 9 of the '739 Patent as detailed herein.

C. Infringement of the '740 Patent

32. It is my opinion that Defendant's products (listed in Exhibit 3 - Sonos Testing Index) directly infringe claim 1 of the '740 Patent as detailed herein.

D. Infringement of the '283 Patent

33. It is my opinion that Defendant's products (listed in Exhibit 3 - Sonos Testing Index) directly infringe claims 6 and 10 of the '283 Patent as detailed herein.

E. Doctrine of Equivalents

34. Expert discovery is on-going and while it is my opinion that Defendant's products literally infringe the patents-in-suit, I reserve the right to supplement or amend my opinion to specifically opine on infringement via the doctrine of equivalents in response to Defendant's non-infringement and/or invalidity arguments or other expert discovery. In the event that one or

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I declare under penalty of perjury that the foregoing is true and correct.



Ivan Zatkovich

September 29, 2014