

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

BLACK HILLS MEDIA, LLC

*Plaintiff,*

v.

SONOS, INC.,

*Defendant.*

Civil Action No. 1:12-cv-00637 (RGA)

**JURY TRIAL DEMANDED**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Black Hills Media, LLC (“Black Hills” or “Plaintiff”), for its First Amended Complaint against Defendant Sonos, Inc. (“Defendant”), states and alleges as follows:

**THE PARTIES**

1. Plaintiff Black Hills Media, LLC, is a Delaware limited liability company having its principal place of business at 1000 N. West St., Suite 1200, Wilmington, Delaware 19801.
2. Upon information and belief, Defendant Sonos, Inc., is a Delaware corporation with its principal place of business at 223 E. De La Guerra Street, Santa Barbara, California 93101.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement under the patent laws of the United States, Title 35, United States Code, specifically §§ 271 and 281-285. This Court has subject matter jurisdiction under Title 28 United States Code §§ 1331 and 1338(a).
4. Personal jurisdiction over Defendant comports with the United States Constitution and 10 Del. C. § 3104 of the Delaware Code because Defendant has committed and continues to

commit acts of patent infringement in this district as alleged in this Complaint and additionally, Defendant is a citizen of this state.

5. Venue is properly within the district under Title 28 United States Code §§ 1391(b) and (c) and 1400(b).

### **BACKGROUND**

6. Black Hills owns all of the rights and interests in United States Patent Nos. 8,045,952 (“the ‘952 Patent”); 8,050,652 (“the ‘652 Patent”); 6,985,694 (“the ‘694 Patent”); 7,742,740 (“the ‘740 Patent”); 6,757,517 (“the ‘517 Patent”); 7,236,739 (“the ‘739 Patent”); 6,826,283 (“the ‘283 Patent”); 8,028,323 (“the ‘323 Patent”); 6,108,686 (“the ‘686 Patent”); 8,230,099 (“the ‘099 Patent”); and 8,214,873 (“the ‘873 Patent”) (collectively, the “Patents in Suit”).

7. The ‘952 Patent entitled “Method and Device for Obtaining Playlist Content Over a Network” was duly and legally issued by the United States Patent and Trademark Office on October 25, 2011, after full and fair examination. A copy of the ‘952 Patent is attached as Exhibit A.

8. The ‘652 Patent entitled “Method and Device for an Internet Radio Capable of Obtaining a Playlist Content From a Content Server” was duly and legally issued by the United States Patent and Trademark Office on November 1, 2011, after full and fair examination. A copy of the ‘652 Patent is attached as Exhibit B.

9. The ‘694 Patent entitled “Method and System for Providing an Audio Element Cache in a Customized Personal Radio Broadcast” was duly and legally issued by the United States Patent and Trademark Office on January 10, 2006, after full and fair examination. A copy of the ‘694 Patent is attached as Exhibit C.

10. The '740 Patent entitled "Audio Player Device for Synchronous Playback of Audio Signals With a Compatible Device" was duly and legally issued by the United States Patent and Trademark Office on June 22, 2010, after full and fair examination. A copy of the '740 Patent is attached as Exhibit D.

11. The '517 Patent entitled "Apparatus and Method for Coordinated Music Playback in Wireless Ad-Hoc Networks" was duly and legally issued by the United States Patent and Trademark Office on June 29, 2004, after full and fair examination. A copy of the '517 Patent is attached as Exhibit E.

12. The '739 Patent entitled "Apparatus and Method for Coordinated Music Playback in Wireless Ad-Hoc Networks" was duly and legally issued by the United States Patent and Trademark Office on June 26, 2007, after full and fair examination. A copy of the '739 Patent is attached as Exhibit F.

13. The '283 Patent entitled "Method and System for Allowing Multiple Nodes in a Small Environment to Play Audio Signals Independent of Other Nodes" was duly and legally issued by the United States Patent and Trademark Office on November 30, 2004. A copy of the '283 Patent is attached as Exhibit G.

14. The '323 Patent entitled "Method and System for Employing a First Device to Direct a Networked Audio Device to Obtain a Media Item" was duly and legally issued by the United States Patent and Trademark Office on September 27, 2011. A copy of the '323 Patent is attached as Exhibit H.

15. The '686 Patent entitled "Agent-Based On-Line Information Retrieval and Viewing System" was duly and legally issued by the United States Patent and Trademark Office on August 22, 2000. A copy of the '686 Patent is attached as Exhibit I.

16. The '099 Patent entitled "System and Method for Sharing Playlists" was duly and legally issued by the United States Patent and Trademark Office on July 24, 2012. A copy of the '686 Patent is attached as Exhibit J.

17. The '873 Patent entitled "Method, System, and Computer-Readable Medium for Employing a First Device to Direct a Networked Audio Device to Render a Playlist" was duly and legally issued by the United States Patent and Trademark Office on July 3, 2012. A copy of the '873 Patent is attached as Exhibit K.

18. Defendant sells and distributes, including upon information and belief within the District of Delaware, at least the following networked audio devices: Play:5, Play:3, Bridge, Connect:Amp, Connect, 2x Play:5, 2x Play:3, Sonos Control, Controller 100, Controller 200, ZonePlayer S5, ZoneBridge BR 100, ZonePlayer 80, ZonePlayer 90, ZonePlayer 100, ZonePlayer 120, and Sonos:Sub.

## COUNT I

### INFRINGEMENT OF THE '952 PATENT

19. Plaintiff incorporates each of the preceding paragraphs 1 - 18 as if fully set forth herein.

20. Defendant is directly or indirectly infringing at least claims 1 and 9 of the '952 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for sale in the United States, including the District of Delaware, products embodying the patented inventions claimed in the '952 Patent without authority, including but not limited to the products identified in preceding paragraph 18, or by contributing to or inducing infringement of the '952 Patent by a third party.

21. Upon information and belief, after becoming aware of the '952 Patent and its

infringement thereof, Defendant is knowingly inducing third party infringement of the '952 Patent.

22. Defendant's inducement of infringement of the '952 Patent includes, but is not limited to, actively encouraging and instructing third parties to use Defendant's products in ways that infringe the '952 Patent. Defendant ships the accused products with pre-loaded streaming services (including Internet music subscription services) and/or provides detailed instructions to third parties on how to download streaming services to the accused products.

23. Examples of such instructions can be found in the following links to the Defendant's website and the attached Exhibit L:

- <http://www.sonos.com/music>
- <http://blog.sonos.com/music-on-sonos/thumbs-up-for-pandora-one/>
- <http://www.sonos.com/support/onlineuserguide/en/>
- <http://itunes.apple.com/us/app/sonos-controller-for-iphone/id293523031?mt=8>.

24. Defendant knew or should have known that its encouragement and instructions to third parties results in infringement of the '952 Patent. Defendant is thus liable for inducing infringement of the '952 Patent pursuant to 35 U.S.C. 271(b).

25. Upon information and belief, since the filing of the First Complaint in which the '952 Patent was included Defendant has willfully infringed, directly and/or indirectly, the '952 Patent by having deliberately engaged in its infringing conduct in knowing disregard of the '952 Patent and has acted objectively and subjectively reckless in implementing technology in its products that it knew or should have reasonably known would infringe the '952 Patent.

26. The infringement by the Defendant of the '952 Patent has injured Black Hills and will cause Black Hills added irreparable injury and damage in the future unless Defendant is

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