

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

STRATOSAUDIO, INC.,

Plaintiff,

v.

HYUNDAI MOTOR AMERICA,

Defendant.

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Case No. 6:20-cv-1125

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff StratosAudio, Inc. (“Plaintiff” or “StratosAudio”) makes the following actions against Defendant Hyundai Motor America (“Defendant” or “Hyundai”):

INTRODUCTION

1. This complaint arises from Defendant’s unlawful infringement of the following U.S. Patents owned by StratosAudio, Inc.: U.S. Patent No. 8,166,081; U.S. Patent No. 8,688,028; U.S. Patent No. 8,903,307; U.S. Patent No. 9,584,843; U.S. Patent No. 8,200,203; U.S. Patent No. 9,294,806; and U.S. Patent No. 9,355,405 (collectively the “Asserted Patents”).

PARTIES

2. StratosAudio is a privately held company incorporated under the laws of Delaware. StratosAudio was founded in 2001 and is headquartered in Kirkland Washington.

3. StratosAudio is a pioneer in the field of media enhancement systems, especially as it relates to interactive advertising, programming and other data manipulation that enables the identification of broadcast media content using data transmitted in an associated datastream, the

combination of such streams used in personalized media distribution, with widely applicable adaptation in commercial media and entertainment systems including vehicle head unit consoles.

4. Based on years of research and development, StratosAudio has created an international patent portfolio comprising more than seventy (70) issued patents broadly directed to media enhancement systems.

5. StratosAudio has, over the years, invested millions of dollars innovating and creating audio media enhancement systems of the type described in StratosAudio's patents.

6. StratosAudio is partly owned by an individual located in this judicial district in Temple, Texas. This individual is also a named inventor on a number of the asserted patents.

7. Hyundai Motor America is a California corporation with its principal place of business in Fountain Valley, California. Hyundai may be served through its registered agent for service in the State of Texas, , National Registered Agents, Inc., 1999 Bryan St., Suite 900, Dallas, Texas 75201. Hyundai is registered to do business in the State of Texas and has been since at least May 13, 1986.

JURISDICTION AND VENUE

8. This action arises under the patent laws of the United States, 35 U.S.C. § 1, et seq., including § 271. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendant because, among other things, Defendant has done business in this District, and has committed and continues to commit acts of patent infringement in this District giving rise to this action, and has established minimum contacts with this forum such that the exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice. Defendant, directly and indirectly through subsidiaries

and intermediaries, has committed and continues to commit acts of infringement in this District by, among other things, making, using, selling, offering to sell, and importing products that infringe the asserted patents.

10. Venue is proper in this District under 28 U.S.C. § 1400(b) because, among other things, Defendant has transacted business in this District and has committed acts of infringement in and has a regular and established place of business in this judicial district. For example, Hyundai conducts its business of the exclusive distribution of new automobiles to the consuming public in this judicial district through its authorized dealers in this judicial district, including selling automobiles, directly and/or indirectly, to and through Greg May Hyundai, located at 1501 W. Loop 340, Waco, Texas 76712. On information and belief, Hyundai does not permit sales of any new Hyundai vehicle from any location except its authorized dealers, such as Greg May Hyundai.

11. The Hyundai dealerships in this judicial district are all named with the “Hyundai” designation (e.g., Greg May Hyundai). The Hyundai dealerships in this judicial district all prominently display Hyundai trademarks, including the Hyundai logo, with no reservations or disclaimers. Hyundai authorizes its dealers in this judicial district to utilize Hyundai’s trademarks, trade name, and other intellectual property associated with the distribution and sale of automobiles and provision of related services.

12. Hyundai dealerships in this judicial district are held out to the consuming public as places of Hyundai where Hyundai, through its dealers, sells Hyundai cars. Hyundai’s website directs users to enter their zip code so that Hyundai can display to the website user Hyundai vehicles available in inventory in their area, so that Hyundai can identify a franchised dealer in their area, and so that Hyundai can schedule a test drive by having Hyundai provide customer information to the Hyundai dealerships, including dealerships in this judicial district. Upon input

of zip code information from this judicial district, Hyundai names and ratifies its dealers in this judicial district, such as Greg May Hyundai, as its place of business where: 1) the user of a website may test drive its cars; 2) it assists a website user in scheduling a test drive at a dealer in this judicial district; 3) it collects customer information and provides that information to its dealers in this judicial district; Hyundai enables website users to solicit quotes to purchase a vehicle from dealers in this judicial district.

13. Hyundai also conducts business through its authorized dealers in this judicial district by providing new purchase warranties and service pursuant to those warranties to the consuming public. Hyundai further delegates maintenance responsive to vehicle safety recalls to its authorized dealers in this judicial district by informing Hyundai owners of the defect and directing Hyundai owners to the authorized dealers for repair of the defect.

14. Hyundai also controls the sale of automobiles in this judicial district by, among other items, establishing criteria and certifying vehicles as part of a “Certified Pre-Owned Hyundai vehicles” program. Hyundai directly controls aspects of employees of its authorized dealers by training service technicians through Hyundai’s Car Care Express program. Hyundai also provides direct and indirect financial input into the operations of its authorized dealers in this district by, on information and belief, offering vehicle financing through Hyundai Motor Finance, and by offering “floor plan” loans directly to its authorized dealers in this judicial district. On information and belief, Hyundai further conducts business through its control over the sale and/or ownership transfer of its authorized dealers in this judicial district, which includes the right to refuse any transfer of ownership of its authorized dealers, and through its control of specific geographic areas in which its authorized dealers in this judicial district may operate.

COUNT I – INFRINGEMENT OF THE '081 PATENT

15. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

16. Plaintiff is the owner and assignee of all rights, title and interest in and to U.S. Patent No. 8,166,081 entitled “System and Method for Advertisement Transmission and Display” (the “’081 patent”), issued on April 24, 2012. A true and correct copy of the ’081 patent is attached hereto as **Exhibit 1**.

17. Defendant makes, uses, offers for sale, sells, and/or imports into the United States certain products and services that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’081 patent, including but not limited to claims 9-11 and 23, and continue to do so since the issuance of the ’081 patent. By way of illustrative example, these infringing products and services include, without limitation, vehicle communication and entertainment systems with head unit consoles that incorporate or otherwise enable Apple Carplay, and at least one of the following: HD radio, SiriusXM radio, and/or FM radio with RBDS (the “Accused Consoles”).

18. Defendant has had knowledge of the ’081 patent from a date no later than the date of the filing of this Complaint. Defendant has known how the Accused Consoles operate and/or are used and has known, or has been willfully blind to the fact, that making, using, offering to sell, and selling the Accused Consoles within the United States, or importing the Accused Consoles into the United States, would constitute infringement.

19. Defendant has induced, and continues to induce, infringement of one or more claims of the ’081 patent by actively encouraging others (including distributors, dealers, and customers) to use, offer to sell, sell, and import the Accused Consoles. On information and belief

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