

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION



Provided by:
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WESTWOOD ONE, LLC,

Plaintiff

v.

LOCAL RADIO NETWORKS, LLC

Defendant.

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Civil Action No. 1:21-cv-00088

(Jury Demanded)

COMPLAINT

Plaintiff Westwood One, LLC (“Westwood” or “Plaintiff”) files this Complaint against Local Radio Networks, LLC (“LRN” or “Defendant”), alleging as follows:

NATURE OF ACTION

1. This is an action for infringement of United States Patent Nos. 7,860,448 and 7,412,203 (collectively, “the Patents in Suit”) under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

PARTIES

1. Plaintiff Westwood is a limited liability company organized under the laws of the State of Delaware and maintains its principal place of business at 220 West 42nd Street New York, New York 10036.

2. Defendant LRN is a limited liability company organized under the laws of Michigan and maintains its principle place of business at 330 Intertech Pkwy, Angola, Indiana 46703.

JURISDICTION

3. This is an action for patent infringement under the Patent laws of the United States, Title 35, United States Code, and more particularly under 35 U.S.C. §§ 271 *et. seq.* This Court has jurisdiction over this patent infringement action under the Judicial Code of the United States, 28 U.S.C. §§ 1338(a) and 1331.

4. Defendant resides in and/or has engaged in business activity within this judicial district sufficient to vest this Court with personal jurisdiction over Defendant.

VENUE

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), (c) and (d) in that Defendant Local Radio Networks, LLC is a limited liability company residing in this judicial district. Defendant also has committed acts in this judicial district that are accused to be direct and/or indirect, and contributory infringements, and inducement of infringement of the Patents in Suit.

FACTUAL BACKGROUND

6. Westwood is the nation's leading audio network, delivering content to over 250 million monthly listeners across an audio network of 7,300 affiliated broadcast radio stations and media partners. Westwood features a large portfolio of audio products that are made available to its affiliates. These audio products include news, talk shows, sports, and entertainment programming and come with technical support in the form of production libraries, prep services, and imaging. Westwood offers these products and services to its affiliates in a manner that allows the affiliates to combine them with localized content specific to the affiliate's geographic location. Westwood owns several patents directed to such methods of incorporating localized content with Westwood's audio products, including the Patents in Suit.

7. On December 28, 2010, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 7,860,448 (the “’448 Patent”) titled Methods and Computer Programs for Localizing Broadcast Content. Westwood is the owner of all right, title, and interest in the ’448 Patent. A true and correct copy of the ’448 Patent is attached hereto as Exhibit 1.

8. On August 12, 2008, the USPTO duly and legally issued United States Patent No. 7,412,203 (the “’203 Patent”) titled Systems, Methods and Apparatus for Operating a Broadcast Network. Westwood is the owner of all right, title, and interest in the ’203 Patent. A true and correct copy of the ’203 Patent is attached hereto as Exhibit 2.

9. The inventions claimed in the Patents in Suit were the result of years of research and development on systems, methods, and apparatus for operating a broadcast network by Westwood. The inventions represent a leap forward in broadcast network technology, solving several problems exhibited by traditional methods and systems that rely on the broadcast affiliate to manually enter “breaks” in programming during which time audio content can be switched over to local broadcast sources.

10. Pursuant to 35 U.S.C. § 282, the ’448 and ’203 Patents, and each and every claim therein, are presumed valid.

11. Pursuant to 35 U.S.C. § 287, Westwood has given Defendant actual notice of the ’448 and ’203 Patents in the form of a series of letters and other contacts commencing in or about May 2020.

COUNT I – PATENT INFRINGEMENT OF THE ’448 PATENT

12. Westwood incorporates Paragraphs 1-11 by reference as if set forth fully as part of this count.

13. Defendant has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, at least independent claim 1 of the '448 Patent by making, using, selling, offering for sale, and/or importing its Radio Velocity Control computer hardware and software technology (collectively the "LRN Program"). Claim 1 of the '448 Patent reads as follows:

A computer program stored on computer-readable media, comprising:

computer program code to,

prompt a first user for a description of first localized broadcast content that is to be broadcast by a first broadcast affiliate;

transmit the description of the first localized broadcast content to a broadcast content provider;

prompt a second user for a description of second localized broadcast content that is to be broadcast by a second broadcast affiliate;

transmit the description of the second localized broadcast content to the broadcast content provider, wherein the first localized broadcast content is different than the second localized broadcast content;

prompt a recording artist to record the first localized broadcast content, thereby creating first recorded content;

prompt a recording artist to record the second localized broadcast content, thereby creating second recorded content;

transmit the first recorded content to the first broadcast affiliate; and

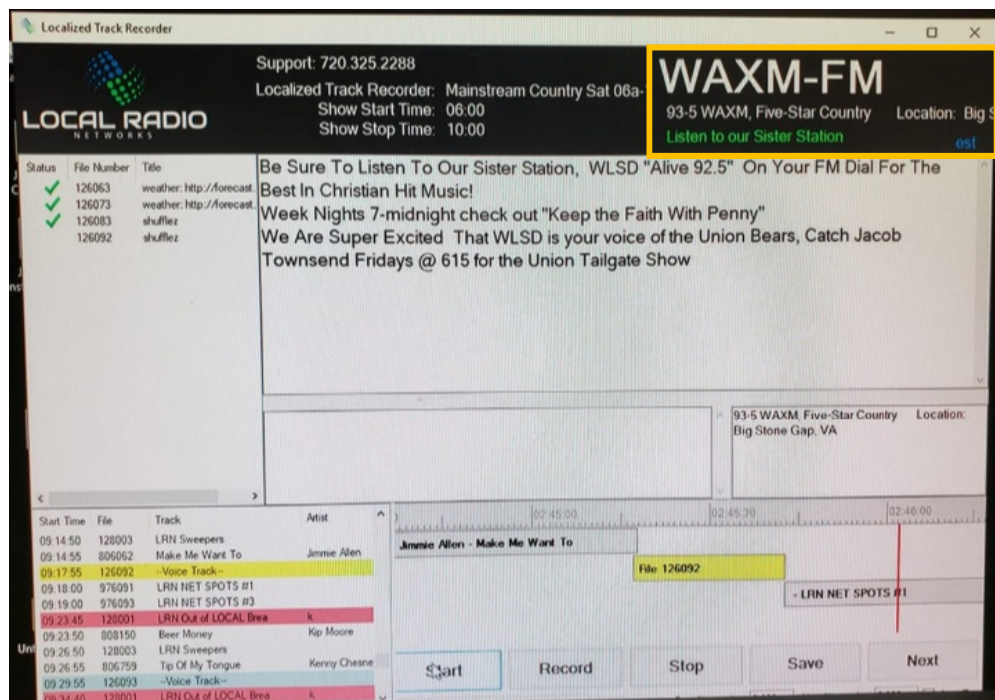
transmit the second recorded content to the second broadcast affiliate.

(Exhibit 1 at Col. 6:60-7:16.)

14. Defendant makes, uses, sells, offers for sale, or imports its LRN Program. The LRN Program embodies a computer hardware and software technology that can be stored on computer-readable media.

15. Upon information and belief, the LRN Program is a system that comprises several components: a Voice Tracker tool, an LRN Portal, a server, and a cloud storage site, each with its own code. These components of the LRN Program together satisfy each limitation of Claim 1 of the '488 Patent.

16. As shown in the below screen shot, the LRN Program has computer program code that prompts a first user for a description of first localized broadcast content that is to be broadcast by a first broadcast affiliate (orange box).

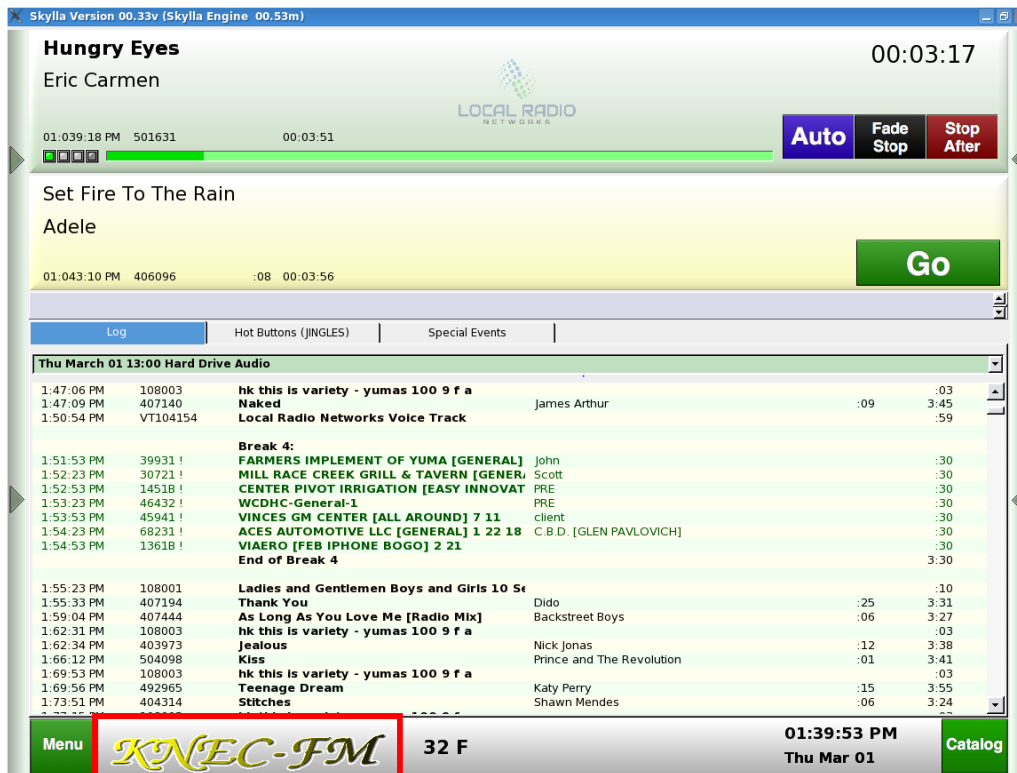


Picture of WAXM-FM Radio Station Operating the LRN Program (Exhibit 3)

17. The LRN Program then transmits the description of the first localized broadcast content to a broadcast content provider. Here, the broadcast content provider is LRN.

18. The LRN Program also prompts a second user for a description of second localized broadcast content that is to be broadcast by a second broadcast affiliate. The LRN Program is designed to be operated in conjunction with numerous broadcast affiliates. As can be seen by the above and below screen shots of LRN's Program, the LRN Program is being utilized

by two different broadcast affiliates (orange and red boxes) in the operation of two different radio stations.



Picture of KNEC-FM FM Radio Station Operating the LRN Program (Exhibit 4)

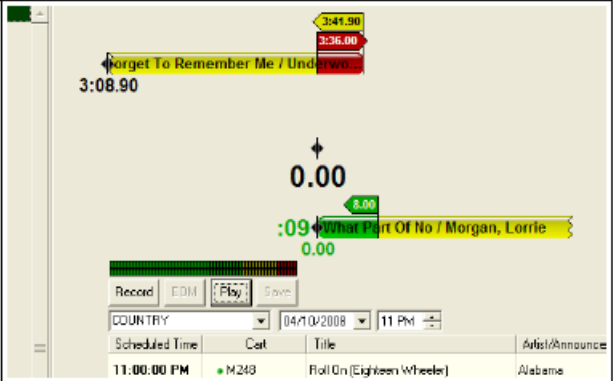
19. The LRN Program also transmits the description of the second localized broadcast content to the broadcast content provider. As the first broadcast affiliate is different from the second broadcast affiliate, the first localized broadcast content is different from the second localized broadcast content.

20. Next, as shown in screen shots of the LRN program below, the LRN Program prompts a recording artist to record (Exhibit 5) the first localized broadcast content (Exhibit 3 purple boxes), thereby creating first recorded content, and prompts a recording artist to record the second localized broadcast content, thereby creating second recorded content (Exhibit 4 green box).

Recording a Voice Track

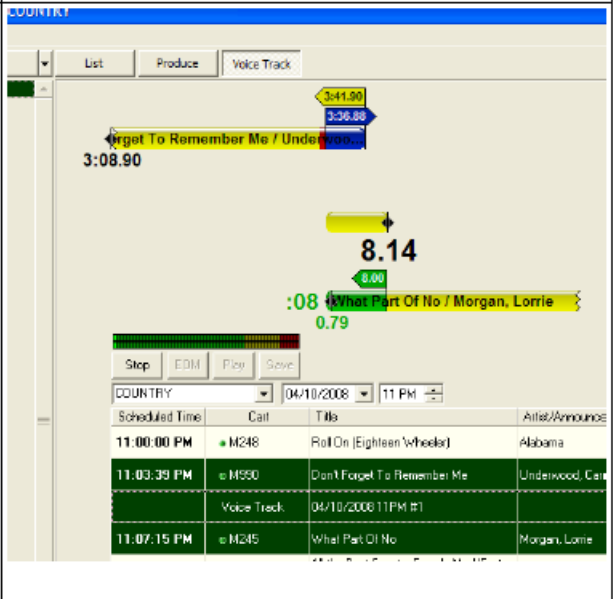
Step 1: Play the end of the first song.

Press the play button and voice tracker will begin playing a few seconds before the EOM point of the last song.



Step 2: Begin recording.

When you hear the point that you want to begin recording, click the record button. Voice tracker will begin recording. A temporary EOM will be set for the previous song at this point (signaled by a blue flag). Click the EOM button at the place that you want the next cut to begin playing.



Picture of Voice Tracking Instruction Manual (Exhibit 5 at 3)

Start Time	File	Track	Artist
09:14:50	128003	LRN Sweepers	
09:14:55	806062	Make Me Want To	Jimmie Allen
09:17:55	126092	-Voice Track-	
09:18:00	976091	LRN NET SPOTS #1	
09:19:00	976092	LRN NET SPOTS #2	
09:23:45	128001	LRN Out of LOCAL Brea	k
09:24:50	808190	Beer Money	Rip Moore
09:26:50	128003	LRN Sweepers	
09:26:55	806759	Tip Of My Tongue	Kerry Chesne
09:29:55	126093	-Voice Track-	
09:34:40	128001	LRN Out of LOCAL Brea	k

Picture of WAXM-FM Radio's Localized Broadcast Content (Exhibit 3)

Thu March 01 13:00 Hard Drive Audio				
1:47:06 PM	108003	hk this is variety - yumas 100 9 f a		:03
1:47:09 PM	407140	Naked	James Arthur	:09 3:45
1:50:54 PM	VT104154	Local Radio Networks Voice Track		:59
1:51:53 PM	39931 !	FARMERS IMPLEMENT OF YUMA [GENERAL]	John	:30
1:52:23 PM	30721 !	MILL RACE CREEK GRILL & TAVERN [GENERAL]	Scott	:30
1:52:53 PM	14518 !	CENTER PIVOT IRRIGATION [EASY INNOVAT	PRE	:30
1:53:23 PM	46432 !	WCDHC-General-1	PRE	:30
1:53:53 PM	45941 !	VINCES GM CENTER [ALL AROUND] 7 11	client	:30
1:54:23 PM	68231 !	ACES AUTOMOTIVE LLC [GENERAL] 1 22 18	C.B.D. [GLEN PAVLOVICH]	:30
1:54:53 PM	13618 !	VIAERO [FEB IPHONE BOGO] 2 21		:30
		End of Break 4		3:30
1:55:23 PM	108001	Ladies and Gentlemen Boys and Girls 10 St		:10
1:55:33 PM	407194	Thank You	Dido	:25 3:31
1:59:04 PM	407444	As Long As You Love Me [Radio Mix]	Backstreet Boys	:06 3:27
1:62:31 PM	108003	hk this is variety - yumas 100 9 f a		:03
1:62:34 PM	403973	Jealous	Nick Jonas	:12 3:38
1:66:12 PM	504098	Kiss	Prince and The Revolution	:01 3:41
1:69:53 PM	108003	hk this is variety - yumas 100 9 f a		:03
1:69:56 PM	492965	Teenage Dream	Katy Perry	:15 3:55
1:73:51 PM	404314	Stitches	Shawn Mendes	:06 3:24

Picture of KNEC-FM Radio’s Localized Broadcast Content (Exhibit 4)

21. The LRN Program then transmits the first recorded content to the first broadcast affiliate, and transmits the second recorded content to the second broadcast affiliate.

22. LRN is and has been on notice of the alleged infringement of the '448 Patent at least as of May 2020, the date of a first cease and desist letter Westwood sent LRN. Further, on information and belief, LRN was aware of the Patents in Suit prior to receipt of the first cease and desist letter, as LRN hired several former Westwood executives who had knowledge of the Patents in Suit. Continuing to make, use, sell, offer for sale, or import the LRN Program following notice of this lawsuit and LRN’s infringement of the '448 Patent constitutes willful infringement.

23. LRN also has and will continue to contribute to the infringement of at least independent claim 1 of the '448 Patent at least by offering to sell, selling, offering to license, and licensing the LRN Program and through its related marketing, advertising, instructions, customer assistance, selling, and licensing activities which encourage, instruct, assist, and/or promote LRN’s customers to use the LRN Program in an infringing manner.

24. The infringing LRN Program comprises a material part of the claimed invention of the '448 Patent. LRN’s marketing materials tout the advantages of the LRN Program as

delivering maximum custom localization and station owner control. Such statements evidence the LRN Program's importance (taken individually and as a whole) as the key components of services offered for sale and/or licensed by LRN, and as claimed in the '448 Patent.

25. Further, the infringing LRN Program is especially made and adapted for use in infringement of the '448 Patent, and the intent of LRN, as evidenced by the instructions and marketing materials, is that the LRN Program be used in an infringing manner.

26. The LRN Program is not a staple article of commerce and has no substantial noninfringing use. The LRN Program, as explained in LRN's marketing materials, is to be used in the production and distribution of radio broadcast content, with a focus on maximizing control over localization of content, as claimed in the '448 Patent. LRN's marketing materials do not advertise or otherwise suggest that the LRN Program is a staple article of commerce or has a substantially noninfringing use. No instructions provide for alternative uses of the LRN Program.

27. Defendant has also induced, and continues to induce, infringement of the '448 Patent by knowingly and intentionally inducing others to make, use, sell and/or import in the United States systems and products covered by one or more claims of the '448 Patent.

28. On information and belief, LRN's customers—namely broadcast affiliates and others in the radio broadcast industry—will directly infringe the '448 Patent by using the infringing LRN Program as part of their radio broadcast platform. LRN knows and intends that its broadcast affiliates use (and, indeed, LRN instructs its broadcast affiliates to use) the LRN Program in a manner that infringes the '448 Patent.

29. LRN will induce infringement of at least independent claim 1 of the '448 Patent by offering for sale, selling, offering to license, and licensing the LRN Program to broadcast affiliates. LRN has instructed and encouraged, and continues to instruct and encourage, its

broadcast affiliates to use the LRN Program as a means of incorporating localized broadcast content in a manner that embodies the invention(s) claimed in the '448 Patent.

30. On information and belief, LRN knows that its sale and/or license of the LRN Program and instructions for use of the same will induce customers to directly infringe the '448 Patent. LRN's marketing materials and instructions for use of the LRN Program in a manner claimed by the '448 Patent demonstrate that LRN intends to induce customers to infringe the '448 Patent.

31. Defendant had actual knowledge of the '448 Patent at the time they were inducing, and continue to induce others to infringe, and contributorily infringing the '448 Patent.

32. Defendant's acts of infringement have been made with full knowledge of the '448 Patent. Upon information and belief, Defendant's infringement is of particular concern given LRN's targeted employment of former Westwood employees. LRN's employees Chris Reeves, Jonathon Steele, Chris Hatton, Matt Caldaronello and Patrick Crocker, are all former Westwood employees. These employees have knowledge of the workings of Westwood's patented program. Furthermore, these employees are presently attempting to use this knowledge to lure customers away from Westwood by informing customers in the market that the LRN Program is comparable. Such acts constitute willful and deliberate infringement, entitling Westwood to enhanced damages and attorney's fees.

33. Upon information and belief, Defendant will continue to infringe, induce infringement and/or contributorily infringe the '448 Patent unless enjoined by this Court.

34. As a consequence of Defendant's infringement, Westwood has been irreparably damaged to an extent not yet determined, and Westwood will continue to be irreparably damaged

by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

35. Westwood is entitled to recover damages adequate to compensate for Defendant's infringement, which in no event can be less than a reasonable royalty.

COUNT II – PATENT INFRINGEMENT OF THE '203 PATENT

36. Westwood incorporates Paragraphs 1-35 by reference as if set forth fully as part of this count.

37. Defendant has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, at least independent claim 1 of the '203 Patent by making, using, selling, offering for sale, and/or importing the LRN Program. Claim 1 of the '203 Patent reads as follows:

A method for operating a radio station, comprising:

periodically receiving generic content files via a satellite downlink or an internet connection;

periodically creating locally generated content files;

storing all of the received generic and locally generated content files;

using an electronic schedule having at least one or more indicators when certain of the generic content files are to be played and one or more indicators when there is supposed to be a break;

preselecting which, if any, of the locally generated content files will be played during a given break without regard for the length or amount of the locally generated content files;

retrieving, playing and broadcasting at least some of the stored generic content files in accordance with the electronic schedule until a break indicator appears at which time the preselected locally generated content files, if any, for that break are retrieved, played and broadcast until completed;

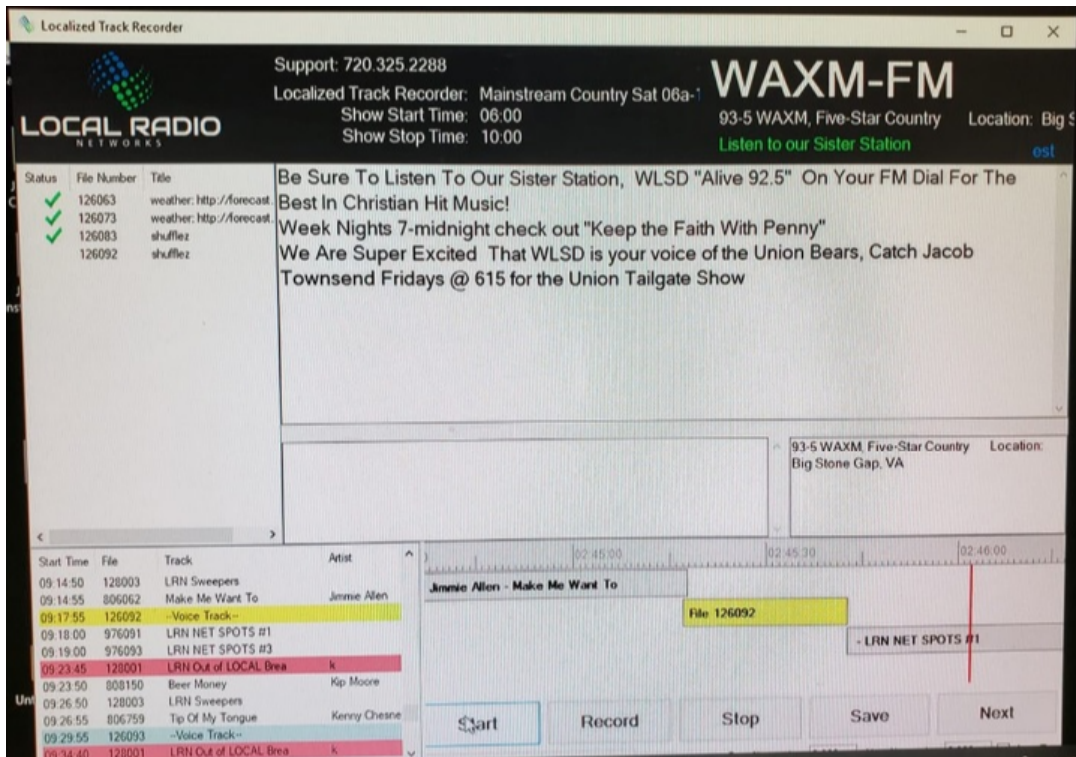
seamlessly resuming retrieving, playing and broadcasting at least some of the stored generic content files without the need for resynchronization with the electronic schedule or dynamically resizing the content files; and

repeating the process.

38. Defendant makes, uses, sells, offers for sale, or imports the LRN Program. The LRN Program comprises a method for operating a radio station.

39. Upon information and belief, the LRN Program is a system that comprises several components: a Voice Tracker tool, an LRN Portal, a server, and a cloud storage site, each with its own code. These components of the LRN Program together perform the method of at least Claim 1 of the '203 Patent.

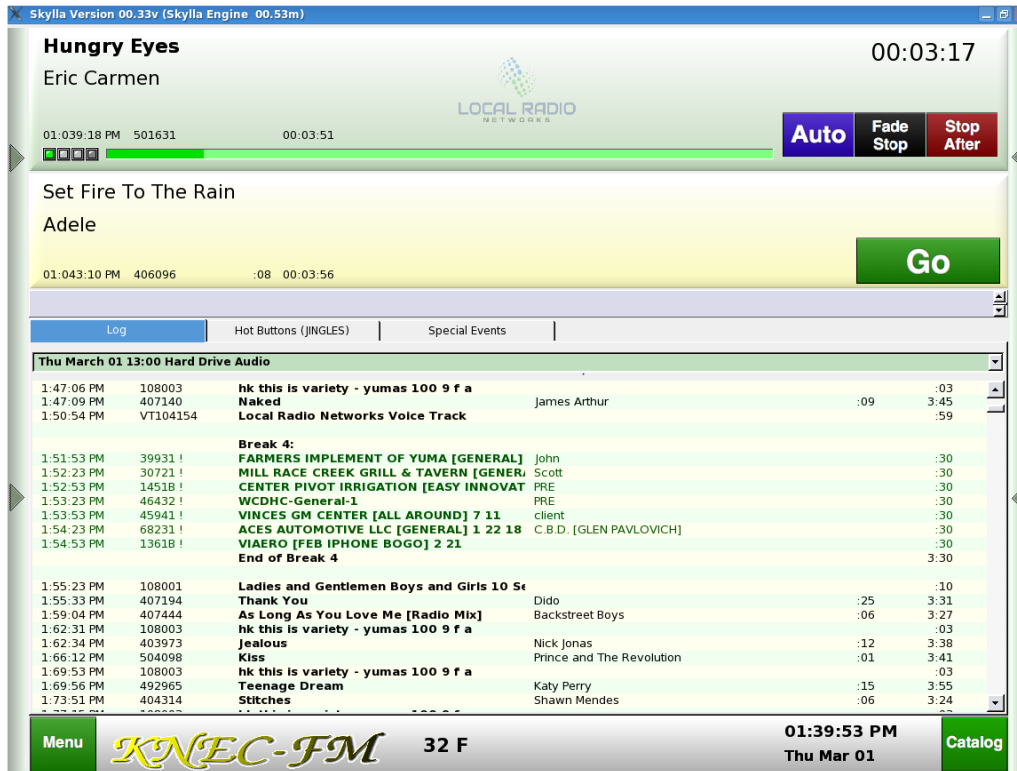
40. Furthermore, the LRN Program periodically receives generic content files via a satellite downlink or an internet connection.



Picture of WAXM-FM Radio Station Operating the LRN Program (Exhibit 3)

41. The LRN Program then periodically creates locally generated content files and stores both the generic and locally generated content files.

42. As shown in the image below, the LRN Program uses an electronic schedule having at least one or more indicators for when certain of the generic content files are to be played and one or more indicators when there is supposed to be a break.



Picture of KNEC-FM FM Radio Station Operating the LRN Program (Exhibit 4.)

43. As depicted below, the LRN Program then preselects which of the locally generated content files will be played during a given break without regard for the length or amount of the locally generated content.



Picture of LRN Program Playing Locally Generated Content (Exhibit 3)

44. Next, the LRN Program retrieves and plays at least some of the stored generic content files in accordance with the electronic schedule until a break indicator appears, at which time the preselected locally generated content files for that break are retrieved, played and broadcast until completed.

45. Lastly, the LRN Program resumes retrieving, playing and broadcasting at least some of the stored generic content files without the need for resynchronization with the electronic schedule or dynamically resizing the content files, and repeats the process.

46. LRN is and has been on notice of its infringement of the '203 Patent at least as of July 2020, the date of an additional letter from Westwood regarding the '203 Patent. Further, on information and belief, LRN was aware of the Patents in Suit prior to receipt of the first cease and desist letter, as LRN hired several former Westwood executives who had knowledge of the Patents in Suit. Continuing to make, use, sell, offer for sale, or import the LRN Program following notice of this lawsuit and LRN's infringement of the '203 Patent constitutes willful infringement.

47. LRN also has and will continue to contribute to the infringement of at least independent claim 1 of the '203 Patent at least by offering to sell, selling, offering to license, and licensing the LRN Program and through its related marketing, advertising, instructions, customer assistance, selling, and licensing activities which encourage, instruct, assist, and/or promote LRN's customers to use the LRN Program in an infringing manner.

48. The infringing LRN Program comprises a material part of the claimed invention of the '203 Patent. LRN's marketing materials tout the advantages of the LRN Program as delivering maximum custom localization and station owner control. Such statements evidence

the LRN Program's importance (taken individually and as a whole) as the key components of services offered for sale and/or licensed by LRN, and as claimed in the '203 Patent.

49. Further, the infringing LRN Program is especially made and adapted for use in infringement of the '203 Patent. And the intent of LRN, as evidenced by the instructions and marketing materials, is that the LRN Program be used in an infringing manner.

50. The LRN Program is not a staple article of commerce and has no substantial noninfringing use. The LRN Program, as explained in LRN's marketing materials, is to be used in the production and distribution of radio broadcast content, with a focus on maximizing control over localization of content, as claimed in the '203 Patent. LRN's marketing materials do not advertise or otherwise suggest that the LRN Program is a staple article of commerce or has a substantially noninfringing use. No instructions provide for alternative uses of the LRN Program.

51. Defendant has also induced, and continues to induce, infringement of the '203 Patent by knowingly and intentionally inducing others to make, use, sell and/or import in the United States systems and products covered by one or more claims of the '203 Patent.

52. On information and belief, LRN's customers—namely broadcast affiliates and others in the radio broadcast industry—will directly infringe the '203 Patent by using the infringing LRN Program as part of their radio broadcast platform. LRN knows and intends that its broadcast affiliates use (and, indeed, LRN instructs its broadcast affiliates to use) the LRN Program in a manner that infringes the '203 Patent.

53. LRN will induce infringement of at least independent claim 1 of the '203 Patent by offering for sale, selling, offering to license, and licensing the LRN Program to broadcast affiliates. LRN has instructed and encouraged, and continues to instruct and encourage, its

broadcast affiliates to use the LRN program as a means of incorporating localized broadcast content in a manner that embodies the invention(s) claimed in the '203 Patent.

54. On information and belief, LRN knows that its sale and/or license of the LRN Program and instructions for use of the same will induce customers to directly infringe the '203 Patent. LRN's marketing materials and instructions for use of the LRN Program in a manner claimed by the '203 Patent demonstrate that LRN intends to induce customers to infringe the '203 Patent.

55. Defendant had actual knowledge of the '203 Patent at the time they were inducing, and continue to induce others to infringe, and contributorily infringing the '203 Patent.

56. Defendant's acts of infringement have been made with full knowledge of the '203 Patent. Defendant's infringement is of particular concern given LRN's targeted employment of former Westwood employees. LRN's employees Chris Reeves, Jonathon Steele, Chris Hatton, Matt Caldaronello and Patrick Crocker, are all former Westwood employees. These employees have knowledge of the workings of Westwood's patented program. Furthermore, these employees are presently attempting to use this knowledge to lure customers away from Westwood by informing customers in the market that the LRN Program is comparable. Such acts constitute willful and deliberate infringement, entitling Westwood to enhanced damages and attorney's fees.

57. Upon information and belief, Defendant will continue to infringe, induce infringement and/or contributorily infringe the '203 Patent unless enjoined by this Court.

58. As a consequence of Defendant's infringement, Westwood has been irreparably damaged to an extent not yet determined, and Westwood will continue to be irreparably damaged

by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

59. Westwood is entitled to recover damages adequate to compensate for Defendant's infringement, which in no event can be less than a reasonable royalty.

PRAYER FOR RELIEF

Westwood requests the following relief:

- a. A judgment that LRN has infringed United States Patent Nos. 7,860,448 and 7,412,203, and that such infringement has been willful;
- b. An injunction enjoining and restraining LRN, its officers, directors, agents, servants, employees, attorneys, and all others acting under or through it from directly or indirectly infringing United States Patent Nos. 7,860,448 and 7,412,203;
- c. A judgment and order requiring LRN to pay all damages arising out of LRN's infringement of United States Patent Nos. 7,860,448 and 7,412,203, including treble damages for willful infringement as provided by 35 U.S.C. § 284, with interest;
- d. A determination that this is an exceptional case;
- e. A judgment and order directing LRN to pay the costs and expenses of this action and attorneys' fees as provided by 35 U.S.C. § 285 and under other applicable law, with interest; and
- f. Such other and further relief as this Court may deem just and equitable.

DEMAND FOR JURY TRIAL

Westwood hereby demands that all issues be determined by jury.

Dated: March 2, 2021

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