

## Amazon's Kindle Fire Infringes Two Playlist Patents: Suit

By **Carolina Bolado**

*Law360, New York (November 22, 2011, 8:43 PM ET)* -- Personal Audio LLC on Tuesday sued Amazon.com Inc. in Texas federal court, alleging the Kindle Fire tablet computer infringes two patents for playlist technology.

Texas-based Personal Audio claims that Amazon has violated U.S. Patent Number 7,509,178, titled "Audio program distribution and playback system," and U.S. Patent Number 6,199,076, titled "Audio program player including a dynamic program selection controller," with its recently released tablet computer version of the Kindle reader.

The patents bear on a player that can reproduce a selection of audio files and is capable of receiving or downloading a navigable playlist, according to the suit.

The Kindle Fire is capable of downloading and receiving playlists of music files from an Amazon Cloud Drive via a Wi-Fi connection, Personal Audio said.

The '076 patent was issued in March 2001, while the '178 patent was granted in March 2009.

The two patents have been at the heart of litigation launched by Personal Audio against Apple Inc. over its iPhone, iPod and iPad products.

A Texas federal jury found in July that California-based Apple had infringed both the '178 and '076 patents, affirmed that they were both valid, and awarded Personal Audio \$8 million in damages.

In August, however, a judge granted Apple's motion for judgment as a matter of law that its questioned products — the iPod Nano, iPhone 4 and iPad 2 — did not infringe the '178 patent. The judge said the patent's claims were not the same as Apple's music players' ability to initiate a data transfer under the doctrine of equivalents.

The jury's finding that Apple infringed the '076 patent, however, stuck.

Personal Audio began its fight against Apple's alleged infringement in June 2009, when it filed suit alleging Apple and several other companies, including Sirius XM Radio Inc., Coby Electronics Corp. and Archos Inc., infringed the '178 and '076 patents.

When the verdict came down, Apple was the only remaining defendant in the suit. Sirius was dismissed from the case in July 2010, while Coby and Archos struck a settlement in May 2010.

Personal Audio has appealed a judge's denial of a new trial and other attempts to increase the \$8 million damage award in the case.

In October, Personal Audio hit Apple with another suit, this time alleging that Apple's newest iPhone infringed the '178 patent.

Representatives for Amazon and for Personal Audio were not immediately available for comment.

The patents-in-suit are U.S. Patent Numbers 7,509,178 and 6,199,076.

Personal Audio is represented by Ronald J. Schutz, Jake M. Holdreith, Cyrus A. Morton, David A. Prange, Patrick M. Arenz, Daniel R. Burgess and Annie Huang of Robins Kaplan Miller & Ciresi LLP and Lawrence L. Germer and Charles W. Goehring Jr. of Germer & Gertz LLP.

Counsel information for Amazon was not immediately available.

The case is Personal Audio LLC v. Amazon.com Inc. et al., case number 1:11-cv-00655, in the U.S. District Court for the Eastern District of Texas.

--Additional reporting by Megan Leonhardt, Richard Vanderford and Melissa Lipman. Editing by Cara Salvatore.

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