

vs.

PERKINS COIE LLP, a Washington partnership;
PERKINS COIE CALIFORNIA, P.C., a California
corporation and DOES 1 through 10 inclusive,

Defendants.

SUMMONS

**Plaintiff designates New York County as
the place of trial.**

Venue is proper pursuant to CPLR §503

TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on Plaintiff's attorney within twenty (20) days after the service of this summons, exclusive of the day of service, or within thirty days (30) after the service is complete if this summons is not personally delivered to you within the State of New York. Venue is proper for this action, because Plaintiff is informed and believes, that Defendant Perkins Coie LLP has offices in New York City, and committed some, if not all, of the acts alleged in the complaint in New York City. In case of your failure to answer, judgment will be taken against you by default for the relief demanded herein.

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vs.

DEMAND FOR JURY TRIAL

PERKINS COIE LLP, a Washington partnership;
PERKINS COIE CALIFORNIA, P.C., a California
corporation and DOES 1 through 10 inclusive,

Defendants.

COMPLAINT

Plaintiff Muzik, Inc. (“Muzik” or “Plaintiff”) alleges as follows:

INTRODUCTION

1. Perkins Coie, LLP (“Perkins Coie” or “Defendant”) attorney, Sean Grygiel (“Grygiel”) tried to cover up repeated failures in seeking and securing patents, at one point by manufacturing false patent application numbers, costing its client, Muzik, hundreds of millions of dollars in lost royalty rights and millions of dollars in fruitless development costs. As a consequence, Muzik unwittingly disclosed key technology without the protection that Grygiel and Perkins Coie represented to be in place, losing out in revenue streams from technologies that are currently being widely used in “smart” electronic devices. Relying on Grygiel’s written assurances, Muzik used significant capital and energy in developing products that were unprotected, instead of focusing on its other inventions that it is now exploiting.

2. In approximately 2012, Muzik’s Chief Executive Officer and primary inventor, Jason Hardi (“Hardi”), developed an overarching design for a fully-integrated, connected, remote-control headphone system. The headphones system incorporated the use of a processor which facilitated a voice and touch control system to allow the user to connect to, and operate, a variety

overarching, idea of voice and touch activated “smart” headphones, but to obtain patents for the technologies underlying the headphone system as well as designs and features that derived from the core concepts.

4. While Gyrgiel’s representation of Muzik began while Grygiel worked at Fish & Richardson, LLP, in 2014, Gyrgiel persuaded Muzik to retain Perkins Coie after he joined the firm as a Partner. Specifically, Grygiel represented to Muzik that it would benefit the company to follow him to Perkins Coie as a client, given Grygiel’s familiarity with and unique understanding of Muzik’s patent portfolio, his encompassing strategy for protecting all of Muzik’s inventions, and his ongoing awareness of the company’s engineering and design development for purposes of continuity and efficiency.

5. However, retaining Perkins Coie was a fatal mistake for Muzik. Throughout Perkins Coie’s representation of Muzik, it repeatedly breached its fiduciary duties of loyalty and its duty of care owed to Muzik while collecting hundreds of thousands of dollars in fees. This included, among numerous other things:

- a. Failing to file applications that would have protected the detailed overarching design shared by Muzik, including products derived from that design, or advising as to why such protection would not be available;
- b. Failing to communicate critical developments in the patent application process, including USPTO actions;
- c. Failing to include critical information regarding Muzik’s technology in provisional patent applications;
- d. Representing directly to Muzik’s investors that patent protection had been obtained or sought, with no prior art complications or impediments, on key elements of Muzik’s product

manufacturing fake patent application numbers to induce Muzik into thinking the application were, in fact, filed.

6. Had Grygiel and Perkins Coie acted within the standard of care, Muzik would have the rights to royalties, and the advantage of being first to market, on core technologies in the rapidly growing field of connected device controls.

THE PARTIES

7. Plaintiff Muzik is, and at all times relevant was, a Delaware corporation, currently engaged in business in Los Angeles County, California.

8. Upon information and belief, Defendant Perkins Coie is, and at all times relevant herein was, a Washington limited liability partnership engaged in business in numerous different cities and states in the United States. For purposes of the services rendered to Plaintiff, Perkins Coie provided those legal services out of its New York City offices.

9. Upon information and belief, for the relevant conduct by Grygiel, an individual and an attorney, Grygiel and Perkins Coie held Grygiel out as a Partner of the law firm with ostensible authority to act on its behalf in providing legal services out of its New York City offices.

10. Plaintiff is unaware of the true names and capacities, whether individual, corporate, associate or otherwise, of the Defendants named herein as Does 1 through 10, inclusive, and therefore sues those defendants by such fictitious names. Plaintiff will seek leave to amend this Complaint to allege the true names and capacities of such Doe defendants when the same have been ascertained. Plaintiff is informed and believes, and thereon alleges, that each of the defendants designated as a Doe is responsible in some manner for the events and happenings referred to herein and proximately thereby caused damages and injury to Plaintiff.

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