

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHEN DISTRICT OF FLORIDA
Miami Division

FILED BY me D.C.
APR - 2 2024
ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - MIAMI

Edwin A. Hernandez,
Plaintiff,

v.

STINGRAY DIGITAL GROUP INC. and
STINGRAY MUSIC USA, INC.,
MOOD MEDIA CORPORATION,
AT&T, Inc,
Millicom, Inc, and DOES 1-700

Defendants,

- 1. MISAPPROIATION OF
TRADE SECRET**
 - 2. VIOLATION OF FLORIDA
UNIFORM TRADE SECRET ACT**
 - 3. PATENT INFRINGEMENT**
 - 4. UNFAIR COMPETITION**
 - 5. BREACH OF CONTRACT**
 - 6. LIBEL AND SLANDERDEROUS**
 - 7. FRAUD**
 - 8. DECLARATORY RELIEF**
 - 9. UNJUST ENRICHMENT**
- JURY TRIAL DEMANDED**

**TRADE SECRET MISAPPROPRIATION AND
PATENT INFRINGEMENT COMPLAINT**

Plaintiff Dr. Edwin A. Hernandez, acting pro-se, with knowledge as to its own acts and status, and upon information and belief as to the acts and status of others, for the complaint against defendant Stingray Digital Group Inc. and Stingray Music USA, Inc. (individually and/or collectively “Stingray”), alleges as follows:

INTRODUCTION

1. This case arises of the theft by STINGRAY DIGITAL GROUP, Inc (“Stingray”), STINGRAY MUSIC USA, Inc (“Stingray Music”), MOOD MEDIA, Inc (“MOOD”), Millicom Inc (“TIGO”), AT&T, Inc , AT&T CORP, (“AT&T), and Does 1-700 collectively called (“Defendants”) of proprietary technologies used in the distribution of music channels to millions of subscribers in the United States and around the world, included but not limited to “Stingray Music” service to subscribers of AT&T, Millicom, and Does 1-760.

2. Ultimately, during the period of theft Stingray Group Inc increased its revenues from from C\$15M¹ to C\$100.4M² per quarter from 2014 to 2024, and accounted at least 413 operators in (Exhibit 1 at Pg. 2) generating \$37.1 millions per Quarter of dollars in revenues the United States³.

3. On Information and belief, Dr. Hernandez’ technologies and patents allowed Stingray to replace competitors as Music Choice to become the leading provider of music services to

¹ <https://www.digrin.com/stocks/detail/RAY-A.TO/earnings>

² <https://finance.yahoo.com/news/stingray-reports-third-quarter-results-230000445.html#>

³ https://corporate.stingray.com/wp-content/uploads/2024/02/press_release_q324_en.pdf

Cable TV operators' with music channels offerings to over 713 operators worldwide (*Id.* at Pg. 2) at Dr. Edwin A. Hernandez expenses.

4. In December 2014, Dr. Edwin Hernandez filed for patent protection for his technological innovations and has received approval of 94 claims spread across 4 US Patents and 8 Claims in an European Patent in 17 jurisdictions, patents that are infringed or were infringed by defendants.

BACKGROUND

5. In and around 2012, a company called "DMX Music" was having financial troubles and used approximately 50 desktop computers to broadcast music-only content to cable operator affiliates. DMX relied on satellite delivery systems and antiquated hardware and software. DMX Management at the time met with Dr. Hernandez to see if something could be done. Dr. Hernandez suggested different items to use, including a project to develop an "alternative" solution to satellite delivery. Dr. Hernandez suggested that he was going to develop a new technology, bring cloud-based platforms, mobile applications, as long as he owned it. As DMX didn't have a budget, Dr. Hernandez began developing this technological platform in multiple phases and multiple products and DMX was going to provide its clients as "testbed" for those technological solutions.

6. The Research and Development included a web-based cloud platform, that DMX called DMX2GO, as well as prototypes audio boxes devices for commercial music customers, mobile applications including "Mediamplify Music", and servers to replace satellite delivery with internet-based transport for the existing audio-only platform.

7. The associated web-based products and mobile application technologies were demonstrated to DMX and DMX used those products to revamp sales.

8. Dr. Hernandez hired services at iWeb (Exhibit 3), Equinix data centers (Exhibit 4), and other providers to work on his streaming platform.

9. By 2013, several servers that contained music and audio-only prototype solution, were shipped by Dr. Hernandez and installed at cable TV headend operators including CABLEMAS, CABLEVISION, AXTELV, ENCOMPASS, and others.

10. However, before discussing technical information, Dr. Hernandez and his company EGLA entered a Non-Disclosure Agreement signed by both parties on March 2012 with DMX (Exhibit 2), and disclosed confidential and proprietary strategies, architecture documents, and software strategies used by Dr. Hernandez.

11. The NDA explicitly recited that “No licenses or rights under any patent, copyright, or trade secret” were granted or were implied with the agreement.

12. Among the many disclosures, Dr. Hernandez presented to then DMX Media General Managers and executives, Gustavo Tonelli and Alejandro Cacciola, confidential technical documents, server plans, technology updates, access to cable operators that were needed in order to perfect and test the developments.

13. To replace antiquated hardware encoders and wiring, a server-based solution was envisioned by Dr. Edwin A. Hernandez to deploy a software-defined system to each Cable Operator. To solve this problem, a software-defined solution was proposed by Dr. Hernandez to replace hardware encoders and satellite delivery which was novel and innovative at the time.

14. In and around, March of 2012, DMX was acquired by MOOD MEDIA for \$86.1M cash and the nascent relationships with Dr. Hernandez progress and was formalized with MOOD MEDIA (Exhibit 5). Post-acquisition MOOD continued using the DMX brand and platform, which included several Dr. Hernandez’ ongoing projects and intellectual property using web-

based technologies and mobile applications. For example, DMX2GO (Web-based), Mediamply Music Mobile App, DMX2GO Widgets, and other Set-Top-Box projects.

15. Dr. Hernandez was the main software developer, architect, solo entrepreneur, test engineer, and sole provider of technologies for MOOD, and started deploying several versions of his software and conducted testing and integration at different major Cable TV systems (e.g., DirectTV in California, Cablevision in Mexico City) where MOOD/DMX had clients to test the solutions using real head ends that connected end-users with Set Top Boxes (STB).

16. As stated earlier, the first version of Dr. Hernandez' software was music-only and did not deliver visual assets. It was not until mid-2013, when Dr. Hernandez developed his first prototype, wrote an specification, and Dr. Hernandez asked one of his team members to implement a python-based software to manage his implementation of HTML-based screen enhancements for Cable TV and Satellite Operators. Dr. Hernandez finalized all the work in and around May 2014.

17. On information and belief, Defendants still directly and/or indirectly import, manufacture, use, offer for sale, and/or sell music services to millions of subscribers worldwide.

18. Because of the obligations and liabilities resulting from Stingray's unlawful and improper acts occurred in Miami, FL, and because Dr. Hernandez is a resident of Coral Springs, FL, venue in this court is proper.

PARTIES

19. Plaintiff Dr. Edwin A. Hernandez is an inventor and entrepreneur that has owned a technology incubator and accelerator, called EGLAVATOR, from 1997 to 2023. The EGLAVATOR was a 10,000 sq ft. facility was in Boca Raton, FL. Dr. Hernandez was Fulbright

scholar and owner of 15 issued patents. Dr. Hernandez spends his time helping entrepreneurs to launch technological startups with technical leadership, oversight, and capital. Dr. Hernandez is also resident of Coral Springs, FL, a native of Honduras, and is part of board of advisers, reviewer for international journals and technical publications, and is the biggest shareholder of several entities, and main founder of EGLA CORP and the inventor of the patents in dispute.

20. Non-party, EGLA CORP, is a Florida corporation with its principal place of business at 4890 NW 101st Ave Coral Springs, FL. EGLA CORP is owned by Dr. Hernandez and his parents (Dr. Alcides Hernandez and Reina Gladys Hernandez), and the company has an exclusive licensee to the technologies owned by Dr. Hernandez.

21. Defendant Stingray Digital Group Inc. (“Stingray”) is a Canadian corporation with its principal place of business at 730 Wellington Street, Montreal, Quebec, Canada H3C 1T4. Stingray currently has over 250 employees across the world. Stingray is doing business in the United States, in the State of Florida, and in this judicial district.

22. Mood Media Corporation (“MOOD”) is a Texas corporation located at 2100 S. IH 35, Suite 201, Austin, TX 78704.

23. On information and belief, Defendant AT&T Corp. is a New York corporation with a principal place of business at One AT&T Way, Bedminster, New Jersey 07921-0752. AT&T Corp.’s registered agent for service is CT Corporation System, 28 Liberty Street, New York, New York, 10005.

24. MILLICOM, INC is a Luxemburg-based corporation with a principal place of business in Miami, FL at 255 Giralda Ave, Suite 800 Coral Gables, FL 33134.

FACTUAL ALLEGATIONS COMMON TO ALL CUASES OF ACTION

A. Dr. Hernandez' Technologies and Patents

25. Dr. Hernandez developed, architected, and implemented all cloud-based platforms multimedia delivery. From 2013 - 2017, Dr. Hernandez used iWeb and EQUINIX Data Centers in Boca Raton, FL to host its multimedia streaming platform, including a network of fiber optic cables that interconnected EQUINIX with his offices in Boca Raton, FL.

26. Dr. Hernandez's technologies are required to distribute music content, instead of having one computer per music channel, all channels are generated and encoded from a single arrangement that including backup systems can be implemented with 2 or 3 servers.

Additionally, configuration, management, and adaptability of the system is software-drive instead of depending on hardware changes.

27. DMX at the time used 50 desktop servers with ASI (Asynchronous Serial Interface) cards that were interconnected to a set of multiplexers and encoders that ultimately were delivered to a satellite system, that was managed by Digital Latin America (DLA) from Coral Springs, FL. In general, most of the industry used these methods for other competitors including Music Choice, Galaxy, and others.

28. Dr. Hernandez invested his own personal funds developing and investing in cloud platforms, a cluster-filesystem called HULADRIVE, testbeds, and integrated in an efficient and cost-effective way, open-source tools such as FFMPEG to work with early-stage formats that were being developed in and around early 2010.

29. The first set of technologies developed were streamers and cloud-based systems to stream a set of music channels (e.g., 100) and provide a link for web applications, mobile

applications, and web-based platform. Dr. Hernandez provided Application Programming Interfaces (API) to retrieve metadata from any of the music channels.

30. Around 2012 to 2013, Dr. Hernandez developed an audio-only broadcasting platform for cable operators and replace satellite delivery that is delivered from a server without using hardware encoders and was compatible with cable TV Set Top Boxes. The audio-only streaming solutions was designed in several ways using several streaming protocols. The vision was to develop a new platform that integrated existing web-widgets, javascripts, and Cascade Style Sheets (CSS) assets to provide a graphical User Experience (UX) with metadata and high-quality music content.

31. Around 2013, Dr. Hernandez investigated how to generate, not only audio streams but incorporate visual components to the stream, which was agreed that all intellectual property derived solely owned by Dr. Hernandez. Several iterations of the solutions were made, and several algorithms were implemented. Dr. Hernandez determined that adding visual components could also be done non-real time but would require heavy production efforts, great amounts of bandwidth, and the off-line generation of video assets. Dr. Hernandez vision was to use real-time video generation using HTML assets to assemble and present User Interfaces while encoding and broadcasting the audio stream in a format compatible with IPTV, Cable TV, or Satellite system. This solution was more efficient and even today is still in use.

32. Dr. Hernandez notified MOOD, under confidentiality, that he was working on a real-time solution that was going to generate on-the-fly video assets with metadata and other widgets, and broadcast to set top boxes or other IPTV systems. After multiple iterations, Dr. Hernandez found that using a headless rendering engine and incorporating web assets was going to be the way to solve a real-time solution that scale.

33. Dr. Hernandez incorporated a solution relying on web user interfaces and javascript for on screen animations and updates and concluded this to be the most efficient way for real-time broadcasting visual assets to set-top-boxes was going to work. Dr. Hernandez showed the results of this solution in operation at a cable operator, Cablevision Mexico, in March 2014, but did not share any technical details as it was a trade secret.

34. This innovative solution would greatly improve headend software and streaming management as well as music license tracking. As part of the services rendered for MOOD, Dr. Hernandez already hosted in his platform all required web-assets, music, user interfaces, that were necessary for MOOD services like DMX2GO or Mobile applications that were being commercialized by MOOD/DMX. Therefore, Dr. Hernandez novel solution enabled a unified distribution system and shared resources across web, mobile, and cable TV.

35. Visual components were rendered and generated on-the-fly with metadata, configurable backgrounds, and music content. These innovations were perfected by Dr. Hernandez and his latest version of the platform's source code was being developed in and around 2013- mid-2014.

36. All the source code and software was protected under the NDA, and all access to the servers and source code was exclusively managed by Dr. Hernandez. Dr. Hernandez personally visited several sites or sent an engineer contractor to visit the Cable Operator sites (head ends), where his servers were going to be located to confirm servers will have adequate internet, power, physical security. All updates were made using secured IP tunnels that connected with iWeb or Equinix.

37. However, unlawful access to those servers was always possible and with the right tools and physical possession of the servers and its hard-drives, Dr. Hernandez' source code

could be retrieved for examination. Otherwise, capturing network traffic could have been done to reverse engineer the system and re-create the underlying technology.

38. In an around March 2014, Dr. Hernandez found out via an internet search that MOOD MEDIA/DMX had been sold to Stingray Digital Group, Inc. However, MOOD MEDIA never notified Dr. Hernandez that it was his servers that were being unlawfully used and accessed by Stingray Digital. Stingray had no rights to access any of those servers.

39. Around April 10-14th, Dr. Hernandez realized that his server assets were now being compromised and that he needed to delete and disconnect all services, and additionally Stingray Digital was in control of head ends and customers previously working under MOOD MEDIA's. Dr. Hernandez sends emails to Mr. Tonelli, Ms. McCool (then working for MOOD, now working for Stingray), and others (Exhibit 9, Pg. 5 to 6)

40. By April 2014, Mr. Gustavo Tonelli was already using a @stingraydigital.com email address (See Exhibit 6 at Pg.2), however around 2014, Mr. Tonelli wrote from his mac.com account (See Exhibit 7) and "privately" stated that "MOOD will sue you for breaching the agreement without proper notice, and it will seek (and most likely get, because you don't have a case) damages for all the money STINGRAY will sue them for."

41. As shown in Sunbiz.org later Mr. Carlos Gustavo Tonelli became an owner of Stingray Music USA, Inc (Exhibit 7), it is unknown what other personnel with knowledge of Dr. Hernandez' trade secrets besides, Gustavo Tonelli and Alejandro Cacciola from MOOD MEDIA became Stingray Digital employees.

42. As shown in the Exhibit 10 and 11, Stingray Digital gained unauthorized access to the same cable operators were Dr. Hernandez had his servers in operation, for example CableMAS (*Id.* at Pg. 20), AXTEL TV (*Id.* at Pg. EGLA-TRELLO-000143), CABLE VISION (*Id.* at EGLA-

TRELLO-000435, ENCOMPASS (Exhibit 11 at EGLA-TRELLO-000520), and others, and Stingray gained access to many trade secrets and source code that was stored in those servers.

B. MOOD MEDIA INDUCES DR. EDWIN HERNADEZ TO DICLOSE ITS TRADE SECRETS TO STINGRAY WITH A FRAUDULENT AGREEMENT

43. During the Fall of 2013, EGLA CORP and MOOD/DMX negotiated a term sheet agreement to license the platforms in iWeb, Equinix, mobile applications, and other web applications, and into the future had the option to include future platform development that was signed at the end December 18th, 2013 (Exhibit 12). Such agreement was signed by Dr. Alcides Hernandez' as CEO of EGLA CORP.

44. During these negotiations, Dr. Alcides Hernandez was not informed that a merger transaction was taking place behind the scenes with Stingray Digital, and that Stingray Digital was going to gain illegal access to Dr. Hernandez' trade secrets, servers, and source code.

45. When Dr. Hernandez discovered around March 2014 that MOOD MEDIA/DMX division was being acquired by Stingray Digital for \$16M, and was not being notified, immediately communicated with Alejandro Cacciola. Both executives, Mr. Carlos Gustavo Tonelli and Alejandro Cacciola became executives of Stingray Digital both executives posed as MOOD MEDIA/DMX contacts to EGLA CORP and Dr. Hernandez' technologies, when they were already working for Stingray before February/March 2014 even appearing in industry magazines (Exhibit 29 at Pg. 16).

46. By April 24th 2014, after MOOD had consummated the \$16.3M Stingray Digital transaction. Dr. Hernandez received a letter from VP of Legal of MOOD MEDIA, Melanie McCool terminating a "term-sheet" that covered the technologies. Ms. McCool claimed that the "Technology didn't work" and that was not in use by MOOD MEDIA, hence such agreement

was unenforceable and that was terminated by a letter from Ms. McCool as shown in Exhibit 9 at Pg.1.

47. The “term sheet” that was signed with MOOD MEDIA/DMX around December 18th, 2013 had a duration of three years and excluded all Intellectual Property and technology ownership was a property of Dr. Edwin Hernandez and his companies from such agreement. In fact, all server’s that were installed in all cable operators contained a “End User Licensing Agreement” as presented in Exhibit 13, that prevented from any reverse engineering.

48. Around mid-April 2021, Dr. Hernandez realizes that the “term sheet” signed with MOOD MEDIA was a fraud and was used to simply gain access to Dr. Hernandez’s trade secrets and intellectual property’s server.

49. Dr. Hernandez contacted the Intellectual Property division, Department of Homeland Security (DHS) of the FBI (Exhibit 14) and request Stingray to delete all hard drives and destroy all servers at all locations that had gained access to, but Mr. Tonelli warranted that “STINGRAY DIGITAL has no knowledge of, nor involvement on, the specifics of MOOD MEDIA’s content delivery technology - EGLA’s or otherwise - nor has the intention of acquiring or learning such technology” (Exhibit 7 at Pg. 2) . .

Intellectual Property Teft

Emails



Edwin Hernandez, PhD <edwinhm@eglacorp.com>

Monday, April 14, 2014 at 2:51 PM

To: IPPRCenter@dhs.gov; Cc: Dr. A Sides Hernandez

Hi DHS,

We have notified STINGRAY MEDIA, a company from Canada, that they are illegally using our software and technology located in ENCOMPASS / TIA in Argentina, and have access to our trade secrets, thru their staff in Miami, FL.

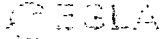
STINGRAY however has access to our software in a server hostage in a location in Argentina at, this was taken over illegally after a transaction made by MOOD MEDIA. This server is required so MOOD MEDIA and STINGRAY can complete a \$16,000,000 dollars deal

Address:
Sacnz Valiente 2420
B1640GNX Martinez
Prov. De Buenos Aires
Republ.ca Argentina

Best Regards,

—
Edwin A. Hernandez, PhD

Chief Technology Officer - Founder
EGLA COMMUNICATIONS
"Your media streaming and cloud storage provider"



Twitter | Facebook edwinhm@eglacorp.com
www.eglacomm.net | www.mediamplify.com | mediarnplifymusic.com | www.huladrive.com
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skype: edwinhe eglacomm

50. Dr. Hernandez acted in good faith and had no choice but to honor the “term sheet” that was signed, and was unable to delet their contents, as contractually Dr. Hernandez and his company was going to be liable for a \$16M transaction that was taking place.

51. As of April 15th, of 2014, Dr. Hernandez’ remote access via Dr. Hernandez’ pre-established IP Tunnels, was severed by Stingray or MOOD, and all of his servers at all cable operators were unlawfully stolen by Stingray.

 **Re: EGLA + MOOD**

Emails



Edwin Hernandez, PhD <edwinhm@eglacorp.com>

Tuesday, April 15, 2014 at 10:11 AM

To: Jim McFeler; Melanie McCool; Todd Haynes; **Cc:** a.ardesh@verlance.com; Cary Meltzer; Robert Strandberg

Re: Seguimiento a...
182.2 KB

Download All Preview All

Hi Jim,

Access to TIA/ENCOMPASS has been terminated by STINGRAY or someone in Argentina, we received an email from Alejandro Cacciola copying some of the cable operators (see attached) that EGLA/Edwin Hernandez had nothing to do with the migration, it was sent out early at 10am yesterday. We don't have clarity about the use and access to the platform, this is very dangerous.

We cannot connect via the main and backup access ports to the system in TIA/ENCOMPASS.

Alejandro Cacciola wrote in an email to the cable operators that:
"Ya ni EGLA, ni Edwin Hernandez están mas involucrados en la operativa tecnica de esta migración."

Translation,
"Neither EGLA, nor Edwin Hernandez are involved in the technical operations of this migration"

We have no control from that service any more at TIA/ENCOMPASS. All other services are operational, at the moment.

We need STINGRAY to give us access immediately if they need our help.

If you have any proposal for us, please send it in writing, although it's been great talking to you but we would like to see those via email.

Best Regards,

--
Edwin A. Hernandez, PhD

52. Dr. Hernandez and his company EGLA CORP followed all efforts and procedures secrecy on all contents of the system and non-disclosure agreements were signed with employees and partners. Additionally, Dr. Hernandez followed all best practices to secure configuration files, manuals, and all source code was behind firewalls and IP secured Tunnels, additionally, physical access was strictly controlled at the EQUINIX data center in Boca Raton, FL as well as iWeb.com, and all employees to EGLA and associates were required to sign non-disclosure agreements ("NDA") in order to preserve all trade secrets and innovations.

53. Now it is evident that, MOOD MEDIA and Stingray worked together to gain access to those trade secrets and source code.

C. DR. HERNANDEZ DISCOVERS THEFT OF HIS INTELLECTUAL PROPERTY.

54. Stingray uses a server device called UBIQUICAST, however no documentation on how this device operates and works is publicly available.

55. Despite all secrecy provisions made by STINGRAY, in and around April 11th, 2021, Dr. Hernandez finds out at a site called **trelllo.com** that the technologies used by Stingray incorporated all trade secrets and now infringe on his patents (Exhibits 10 and 11).

56. Therefore, Dr. Hernandez concludes that Stingray Digital gained illegal access to Dr. Hernandez source code by physically having control of its servers that contained development source code and terminated access to Dr. Edwin Hernandez in and around April 15th, 2014.

 **Re: Breach of contract notification**

Emails



Edwin Hernandez, PhD <edwinhm@eglacorp.com>

Tuesday, April 15, 2014 at 1:31 PM

To: Melanie McLeod; Jim McFelin; Dodd Haynes; Cc: afoads@eglacorp.com; Gary Melzer; Robert Strandberg

Hi Melanie,

Thanks for your reply, there were other items in our letter, for example proof that "Powered by EGLA COMMUNICATIONS" has been shown in all marketing materials used by MOOD MEDIA, among other issues from the NDA. We still have no access to the system in ENCOMPASS TV, we suspect that system is compromised.

Also, when you installed the MEDIA PLUG specially the one in Encompass you accepted the use of all terms in the licensing agreement found inside the box. An except of the licensing agreement is shown here:

***GENERAL LIMITATIONS**

This is a license, not a transfer of title, to the Software and Documentation, and EGLA CORP retains ownership of all copies of the Software and Documentation. Customer acknowledges that the Software and Documentation contain trade secrets of EGLA CORP or its suppliers or licensors, including but not limited to the specific internal design and structure of individual programs and associated interface information. Except as otherwise expressly provided under the Agreement, Customer shall have no right and Customer specifically agrees not to:

(A) transfer, assign or sublicense its license rights to any other person or entity (other than in compliance with any EGLA CORP relicensing/transfer policy then in force), or use the Software on unauthorized or secondhand EGLA CORP equipment, and Customer acknowledges that any attempted transfer, assignment, sublicense or use shall be void;

(B) make error corrections to or otherwise modify or adapt the Software or create derivative works based upon the Software, or permit third parties to do the same;

(C) reverse engineer or decompile, decrypt, disassemble or otherwise reduce the Software to human-readable form, except to the extent otherwise expressly permitted under applicable law notwithstanding this restriction;

(D) publish any results of benchmark tests run on the Software;

(E) use or permit the Software to be used to perform services for third parties, whether on a service bureau or time sharing basis or otherwise, without the express written authorization of EGLA CORP; or

"

Best Regards,

Edwin

57. Stingray has concealed up until this date how his UBIQUICAST software works.

However, during the period corresponding to 2017 to 2020, Dr. Hernandez carefully examined

several heavily redacted documents from the patent infringement litigation between Music Choice and Stingray Digital, under case No. 2:16-CV-0586-JRG-RSP (Exhibit 15) and tried to extract as much information as possible.

58. In this patent litigation between Stingray and Music Choice, and its associated breach of contract case, the closest disclosure was found at Judge Payne's order that Stingray had two versions of their technology (Exhibit 15, at Pg. 336 – 341):

- OSE1 pre-Fall 2014 – not accused of infringement and trade secret misappropriation by Dr. Hernandez
- OSE2 after-Fall 2014 - accuse of infringement and trade secret misappropriation by Dr. Hernandez

59. Therefore, Ubiquicast OSE2 server was created by Stingray no later than March 2015 (“.. prior to March 2015, Stingray did not offer or provide any music video TV channels to MVPDs..”) as indicated by Stingray attorneys in the following redacted Dkt #203 filed June 4th, 2019 in 2:16-cv-00586-JRG-RS (Exhibit 15 at Pg. 9)

Case 2:16-cv-00586-JRG-RSP Document 203 Filed 06/04/19 Page 9 of 21 PageID #: 10489

REDACTED
HIGHLY CONFIDENTIAL-ATTORNEY'S EYES ONLY

(STINGRAY118548 (Ex. 9)). Although Stingray provides at [REDACTED]
[REDACTED] (the
“Stingray Music TV App”). (*Id.*: Report (Ex. 1), ¶49). Stingray first provided [REDACTED] with the accused
Stingray Music TV App in March 2015. ([REDACTED]
[REDACTED] (Ex. 11), pp. 1, 9); [REDACTED]
[REDACTED] (Ex. 12)). Prior to March 2015, Stingray did not offer
or provide any music video TV channels to MVPDs that are accused of infringing the patents-in-suit.
(*See id.*: Report (Ex. 1), ¶¶62, 88)

60. Additionally, In the complaint and amended complaints filed by Music Choice, Music Choice attorneys indicates that Stingray had two versions of the UbiquiCAST platform. For example, Dkt #28 of case No. 2:16-CV-0586-JRG-RSP, indicates at ¶41 (Exhibit 15 at Pg. 717) that “Stingray, in the fall of 2014, launched, as part of AT&T’s U-Verse® services, an improved digital audio music and video on demand... included the features and functionality infringing Music Choice’s patents – features and functionality that Music Choice had not previously observed in Stingray’s product offering prior to Stingray’s access to the information it obtained from Music Choice” None of this facts was disputed, in fact, Dkt 225 (Exhibit 15 at Pg 207) further confirms that Music Choice and Stingray Digital signed confidentiality agreements in 2013 (Exhibit 15 at Pg. 241-245.)

61. Therefore, on information and belief, by Q4 of 2014, Stingray Digital had a new version of the server, called Ubiquicast OSE2 server. This is the version that incorporates Dr. Hernandez’ trade secrets and all features learned by Stingray Digital upon gaining unlawful access to by Dr. Hernandez servers and source code.

62. By December 2014, Dr. Edwin A. Hernandez filed a patent application for the systems and methods include the broadcast of web-based on-screen enhancements and other features of streaming and multimedia distribution, obtaining four issued patents in the United States US Patent Nos. 10,123,074 (“the ‘074 patent”); 10,524,002 (“the ‘002 patent”), 11,140,441 (“the ‘441 patent”); and the allowed US17/493490 (“the ‘490 patent application”) (collectively “Dr. Edwin Hernandez’s patents”). Copies of the ‘074, ‘002, ‘441 patents and the allowed claims of the ‘490 accompany this Complaint as Exhibits 1-4. In Europe, Dr. Hernandez was granted an European Patent No. EP3238457A4 enforceable in 17 jurisdictions (Exhibit 36).

63. Through subsequent investigation, Dr. Hernandez learned that Stingray had continue and continues to develop new products into which Google has incorporated Dr. Hernandez' trade secrets thus misappropriating Dr. Hernandez' and other EGLA CORP's proprietary information and know-how for its own benefit at Dr. Hernandez' expense.

64. Stingray has gained customers such as AT&T U-verse®, Millicom's TIGO®, and over 700+ cable operator that translates in 400 million subscribers in 156 countries, some of the cable operators are listed as part of Exhibit 1.

D. STINGRAY MISAPPROPIATION OF DR. HERNANDEZ' TRADE SECRETS

65. Therefore, Stingray Digital gained access to employees, documents, servers, and source code that was compromised during the MOOD MEDIA/DMX acquisition. Stingray Digital was able to see all components and Dr. Hernandez technologies in operation at a cable operator, gained access to his servers, and severed all access to Dr. Hernandez in and around April 15th, 2014.

66. To this date, Stingray's UbiquiCAST servers information was not publicly available and rather vaguely described by STINGRAY digital on their web page⁴:

Ubiquicast servers are set-up and configured to each client's specific requirements before being shipped to head-ends. This process facilitates installation and expedites time to market for new services. Stingray's technical team is available 24/7 for help and support, ensuring reliable and uninterrupted service for your customers.

67. Therefore, Dr. Hernandez is unaware of any misappropriations and proceeds offer his help and expertise to Stingray, as part of the patent dispute with Music Choice.

⁴ <https://www.stingray.com/business-solutions/tv-providers> Last Visited March 28th, 2024

68. Around September 15th, 2017, Dr. Hernandez' company, EGLA CORP, and STINGRAY signed an NDA (Exhibit 16). As Dr. Hernandez informed Stingray on its patent applications and made an offer Dr. Hernandez' to use his patented technologies as an alternative non-infringing solution to Music Choice's dispute.

69. Around 2018, Dr. Hernandez approached STINGRAY, as his patent 1st patent was issued, and offered his patent portfolio include all source code for licensing. Dr. Hernandez and EGLA CORP was under the presumption that STINGRAY had not misappropriated any trade secrets at that point.

70. After several attempts and discussions held with Stingray's technical staff and Lloyd Feldman, VP of legal during 2018 and 2019 (Exhibit 17), that continued with exchanges via courier certified packages with letters and presentations to Stingray. Stingray management and executives showed no interest to obtain any licensing or develop any collaboration with EGLA CORP. Therefore, Dr. Hernandez ceased all communications with STINGRAY.

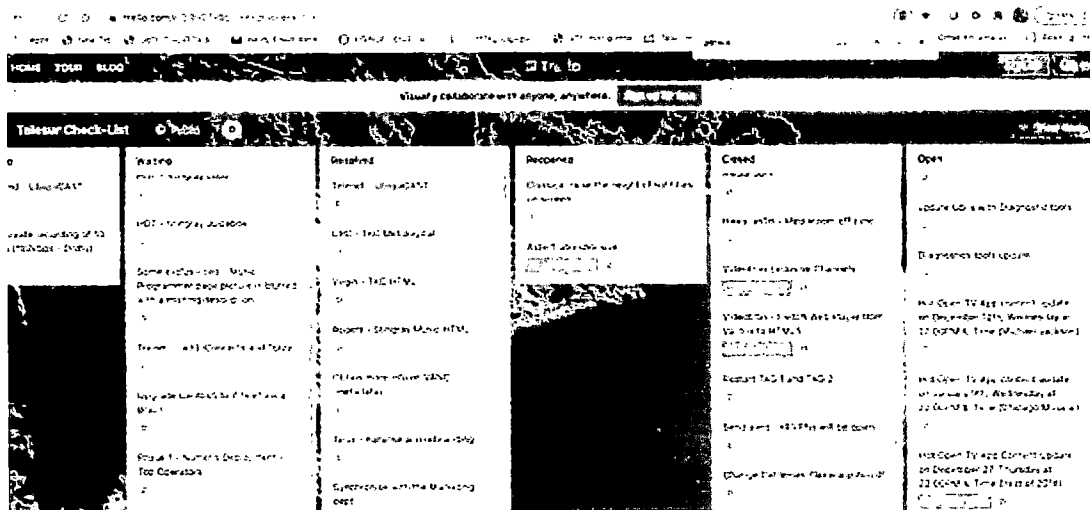
71. In 2020, STRINGAY settled the case with Music Choice as of February 4th, 2020 for \$13.25 M and the dispute was terminated. The 1st payment was going to be completed as of 2020 and a 2nd payment in early 2021.

72. As of April 7th, 2021, Dr. Edwin A. Hernandez, as part of its diligence process and continuing its investigation on this case., Dr. Hernandez ran into a site controlled by trello.com. For a period corresponding to April 7th to April 20th, 2021, Dr. Hernandez reviewed all trouble tickets provided by Trello and compiled them as shown in Exhibit 10 and 11.

73. The site's url is <https://trello.com/b/89nC7n95/telesur-check-list> containing hundreds of trouble tickets generated by Stingray regarding its OSE2 Ubiquicast Server.

74. The evidence also points to internal servers at stingray.com and stingraydigital.com, primarily JIRA instances “Jira Issue Link : <https://jira-stage.corp.stingraydigital.com/browse/CUSTTS-1284>” as well as other Stingray internal sites at such as “confluence”⁵

75. Dr. Hernandez proceeded to download relevant content and evaluate all evidence missing from the patent case evaluation. A screen shot of the website is shown herein:




76. The trello.com website contains hundreds of entries from what appears to be all trouble tickets that STINGRAY handled with customers as early as March 2015 and as late as 2018. As shown in the following screenshot:

⁵ <https://www.atlassian.com/software/confluence/features> Confluence is an Atlassian tool. Last Visited: April 16th, 2021

 **DTV PA - Metadata testing for a new Test Title Handler** 

in list Closed

DUE DATE

Mar 15, 2015 at 8:00 PM 

ACTIONS

 Share

 **Description**



Joe Ramos (DirecTV PA) requested Stingray's help to test a new Title Handler system (172.23.181.49 port 3000).

UbiMetaServer on the backup server dtv_latam2 must be restarted to point to the mentioned IP address.

#

Jira Issue Link : <https://jira-stage.corp.stingraydigital.com/browse/CUSITTS-255>

 **Activity**

-  **deployment57** added this card to Closed
Jan 15, 2019 at 11:31 AM
-  **deployment57** set this card to be due Mar 15, 2015 at 8:00 PM
Jan 15, 2019 at 11:31 AM

77. Dr. Hernandez concluded that there was sufficient evidence in these files to demonstrate how STINGRAY digital misappropriated trade secrets from Dr. Hernandez, and the contents of these tickets were genuine.

78. For example, several of Dr. Hernandez' servers were installed at the same cable operators found at for example: AXTEL TV, CABLE VISION and ENCOMPASS. The trello.com evidence demonstrates that had access to the servers that Dr. Hernandez installed and remotely managed. As shown in the following trouble tickets citing AXTEL TV around April 13th, 2015 (Exhibit 10, EGLA-TRELLO-000532), and many others.

81. The same component “StilPic Generator,” cited by the court order, is referenced in trello.com . As shown in trouble ticket below (Exhibit 10, at EGLA-TRELLO-000530) as shown in the text “monit alerts for various components “ that includes: “stillpicgenerator, ubimetaserver and ubiquitous.”

The screenshot shows a Trello card interface. At the top, there is a close button (X) and a label 'in list Closed'. Below this is a 'Description' section with a hamburger menu icon on the left and 'ACTIONS' and 'Share' on the right. The main text of the card reads: 'Create new GalaxieUpdater component UBI_MONIT_LINUX to facilitate monit alert updates across ubi servers.' Below this is a highlighted box containing the text: 'Will update monit alerts for various components, e.g. stillpicgenerator, ubimetaserver, ubiquitous, etc.' Further down, there is explanatory text: 'Some alerts are already installed separately with their respective software component, i.e. galaxieclient and audioengine. The management for those alerts will remain as-is and will not be moved to UBI_MONIT_LINUX, unless decided otherwise later on.' This is followed by: 'This task relates only to the development of the software component UBI_MONIT_LINUX.' and 'The deployment/update of monit across all ubi servers is addressed task CUSTTS-390.' A '#' symbol is present, followed by the text: 'Jira Issue Link : <https://jira-stage.corp.stingraydigital.com/browse/CUSTTS-228>'. Below the description is an 'Activity' section with a hamburger menu icon. It contains one activity: 'deployment57 added this card to Closed' with a timestamp 'Jan 15, 2019 at 11:32 AM'.

82. Dr. Hernandez reviewed over 654 references from trello.com to derive all claim charts and conclude the trade secret misappropriation by Stingray.

83. The stolen servers included confidential, proprietary, and trade secret software, designs, configuration contained in its servers that Gustavo Tonelli and Alejandro Cacciolla and other ex-DMX employees were aware of and became Stingray employees.

84. These servers contained source code in python, C/C++ encoders, a Linux-based software, PNG backgrounds, FFMPEG, MONIT, video generators, URL-based resources, and web asset processing, Audio in AC-3, Video in H.264 codecs etc. Dr. Hernandez’ trade secrets included all architecture methods and systems with encodings scripts, source code to generate

screens, use of multicast IP Addresses, GOP sizes, audio encoders levels, and other configurations that the evidence show were misappropriated by Stingray employees or contractors under Stingray's direction and control.

85. Stingray UbiquiCAST OSE2 servers from trerllo.com is based on CentOS, also a Linux-based system, while Dr. Hernandez' used Ubuntu's platform, both systems use FFMPEG as in Exhibit 10 and 11 at ECLA-TRELLO-00063, Video Generators at *Id.* ECLA-TRELLO-000565), URL and web asset processing at *Id.* ECLA-TRELLO-0000565, MONIT at *Id.* ECLA-TRELLO-000528, GOP Sizes at *Id.* ECLA-TRELLO-000568, Multicast IP Address at *Id.* ECLA-TRELLO-000639, ECLA-TRELLO-000604, Audio in AC-3 at *Id.* ECLA-TRELLO-000450), Video in H.264 at *Id.* ECLA-TRELLO-000654, for example.

86. Additionally, UbiquiCAST OSE2 servers use PNG backgrounds, which is not disclosed in the US Patent descriptions, but it is in the source code that was stored in the file. Indeed, Exhibit 10 at ECLA-TRELLO-000496 and the directory "/data/stillpic/background," apparently only supported by UbiquiCAST OSE2 servers only. As shown herein:

 Create new CentOS 7 Ubi Image

in list Closed

 Description

Actions

 Share

2)set the password - passwd (Stingray123!)
3) Install new Ubi version with libraries
7)Raise the limit of open files
process found here:
<https://confluence.corp.stingraydigital.com/display/DV/Deployment+Useful+Shell+commands#DeploymentUsefulShellcommands-Raisethelimitofopenfiles>
8)shutdown -rf now (if shutdown fails, and you have to connect to DRAC, delete last line in vim /etc/fstab, then reboot)
11)yum -y install dos2unix
12)service firewalld stop
15)in mysql galaxie, after GalaxieClient is done, set global max_connections = 500; (*may need to stop galaxieclient to get this to work)
17) yum install -y libstdc++ and, yum install -y libstdc++.i686 --skip-broken
18) Update Monit
20)create location /data/stillpic/background add background pngs (for ose2 only)
Message Input

Jira Issue Link : <https://jira-stage.corp.stingraydigital.com/browse/CUSITTS-2135>

87. Similarly, UbiquiCAST OSE2 is connected to the cloud, to Amazon's web services as shown in Exhibit 11 at Pg. 5, 10, 50, 54, and others, exactly how Dr. Hernandez' system operated with DMX2GO and iWeb platforms.

88. Dr. Hernandez servers and OSE2 software showed the existence of more trade secrets, for example they both can broadcast in different formats, Dr. Hernandez's servers are capable of broadcasting:

- a. Broadcast audio with MPEG Data
- b. Broadcast Audio with MPEG2Video and MPEG Data
- c. Broadcast Audio with H.264 Video and MPEG Data
- d. Where MPEG Data is optional.

That, matches Ubiquicast OSE2 formats at shown in Exhibit 10 at ECLA-TRELLO-000654:

UbiquiCAST - Prepare AudioEngine config templates
in list Closed

DESCRIPTION

Prepare audioengine config templates (shared task for Nadia and Mike)

- audio + data
- audio + OSE2 MPEG-2 + data
- audio + OSE2 H.264 + data
- Ambiance
- LiteTV

#

Jira Issue Link : <https://jira-stage.corp.stingraydigital.com/browse/CUSTTS-379>

ACTIONS

Share

Activity

deployment57 added this card to Closed
Jan 15, 2019 at 11:28 AM

89. Dr. Hernandez trade secrets included all the source code implementation on how “still images” were generated by the caching unit and broadcasted using an MPEG Transport Stream, that are evident in Exhibits 10 and 11 of trello.com and are fundamental parts of UbiquiCAST OSE2.

90. Therefore, Dr. Hernandez can demonstrate multiple instances where his trade secrets appeared in UbiquiCAST OSE2 servers, before June, 2016 when the PCT patent application was published and some of the trade secrets became part of his patent portfolio.

E. DR. EDWIN A. HERNANDEZ PATENTS

91. Upon the breakup with Stingray Digital Group, Dr. Hernandez finalized all source code and completed testing its system and drafted a patent application, which was filed by December 2013.

92. On November 8th, 2018, the United States Patent and Trademark Office (the “PTO”) duly and lawfully issued United States Patent No. 10,123,074 (“’074 Patent”), entitled “Method, system, and apparatus for multimedia content delivery to cable TV and satellite operators.” A

true and correct copy of the '074 Patent is attached as Exhibit 18 . Dr. Edwin A. Hernandez is the sole owner of the '074 Patent.

93. On December 31st, 2019, the United States Patent and Trademark Office (the "PTO") duly and lawfully issued United States Patent No. 10,524,002("002 Patent"), entitled "Method, system, and apparatus for multimedia content delivery to cable TV and satellite operators." A true and correct copy of the '002 Patent is attached as Exhibit 19. Dr. Edwin A. Hernandez is the sole owner of the '002 Patent.

94. On October 5st, 2021, the United States Patent and Trademark Office (the "PTO") duly and lawfully issued United States Patent No. 11,140,441("441 Patent"), entitled "Method, system, and apparatus for multimedia content delivery to cable TV and satellite operators." A true and correct copy of the '441 Patent is attached as Exhibit 20. . Dr. Edwin A. Hernandez is the sole owner of the '441 Patent.

95. On March 18th, 2024, the United States Patent and Trademark Office (the "PTO") issued a Notice of Allowance for US Patent Application. US17/493490 ("the '490 patent application") entitled "Method, system, and apparatus for multimedia content delivery to cable TV and satellite operators." A true and correct copy of the '490 Patent claims is attached as Exhibit 21. Dr. Edwin A. Hernandez is the sole owner of the '490 Patent Application.

F. BACKGROUND OF THE PATENTS AND DR. EDWIN HERNANDEZ

96. Dr. Edwin A. Hernandez is a Ph.D in Computer Engineering from the University of Florida and an inventor of 15 issued patents. Dr. Hernandez is an innovator in 2017 founded his startup accelerator and incubator, the EGLAVATOR. At his incubator, many other devices have been invented multiple devices and companies launched. Dr. Hernandez keeps contributing with

with technological advancements and recently filed for a new patent application for MEVIAOS, a decentralized multimedia operating system, the evolution of MEVIA.

97. Among his patent portfolios, Dr. Hernandez has licensed some of his inventions to mobile carriers, phone manufacturers, including Verizon Wireless, by his company Mobility Workx, LLC.

98. Dr. Hernandez also works as an expert witness for patent, trade secret, and technology intellectual property cases, and has testified in trial, and deposed dozens of times for high-profile litigations.

99. The issued patents disputed here do not include many aspects of Dr. Hernandez' streaming platform and R&D existing around 2013 and 2014. The patents exclude:

- a. iWEB cloud and multimedia streaming cloud APIs and streaming for web,
- b. Mobile Applications with Music Streaming and Video,
- c. Multimedia CDN and Cloud Storage (e.g., Huladrive),
- d. APIs for metadata and music information from the server(s) and used by the mobile applications,
- e. Music-only streaming to Cable TV operators.

100. The patents in Exhibits 18-21 cover 94 issued claims that include streaming broadcasting of unicast and multicast systems, where the source of the generated content is HTML, multimedia files, and broadcasting platforms. Only three claim charts are attached to this complaint at Exhibits 32, 33 and 34 but not of the last issued patent as the USPTO has not yet assigned a US Patent number,

101. In simple terms, one of the aspects of the patents is the generation of visual representations with background images generated using web-based elements, that are already

used in mobile applications and a unified user experience. The screens displayed in set top boxes or Smart TVs are generated with images, html, and styles from a web page that are displayed and broadcasted in a multicast address, which is compatible with MVPD operators (e.g., AT&T, Millicom's TIGO, etc).

102. The issued patents also cover the use of virtual machines, headless browsers, m3u8 streaming, fault-tolerance, MPEG-based multiplexers, use of caching units, multicast servers, unicast servers, CSS, HTTP, JSON, H.264 encoders, MPEG2Video encoders, among other innovations.

G. STINGRAY INFRINGES AND INDUCES INFRINGEMENT BY THEIR CUSTOMERS AT&T, MILLICOM, and Does1-700.

103. Stingray has been and is now directly infringing and/or indirectly infringing Dr. Hernandez' patents.

104. On information and believe, Stingray is a worldwide distributor of on-demand and liner content via the Internet, Cable Operators, IPTV Systems, and other devices, including cars.

105. Stingray makes, uses, sells, and offers for sale in the United States products and services that infringe Dr. Hernandez Patents, and continues to do so. These infringing products and services include online streaming services operated by Stingray through its Application, Site, Ubiquicast and other cloud-based Server(s) (collectively, "the Accused Streaming Services"). Id.

106. AT&T offers its product "AT&T U-verse®" and according to Exhibit 34 has assigned channels 5100 to 5174-channels, that signals that from 2014 to 2024 has been serviced using UbiquiCAST OSE2, and the claim charts associated with each of the patents is being infringed by AT&T.

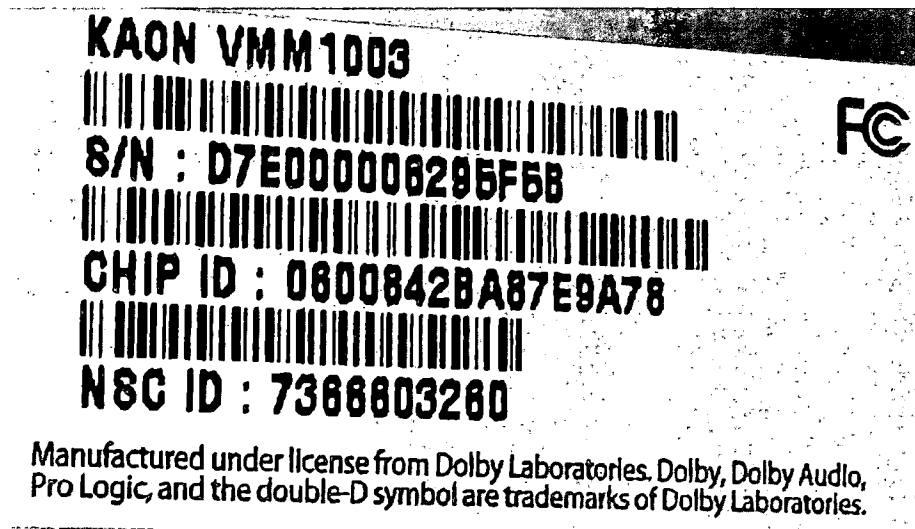
STINGRAY MUSIC

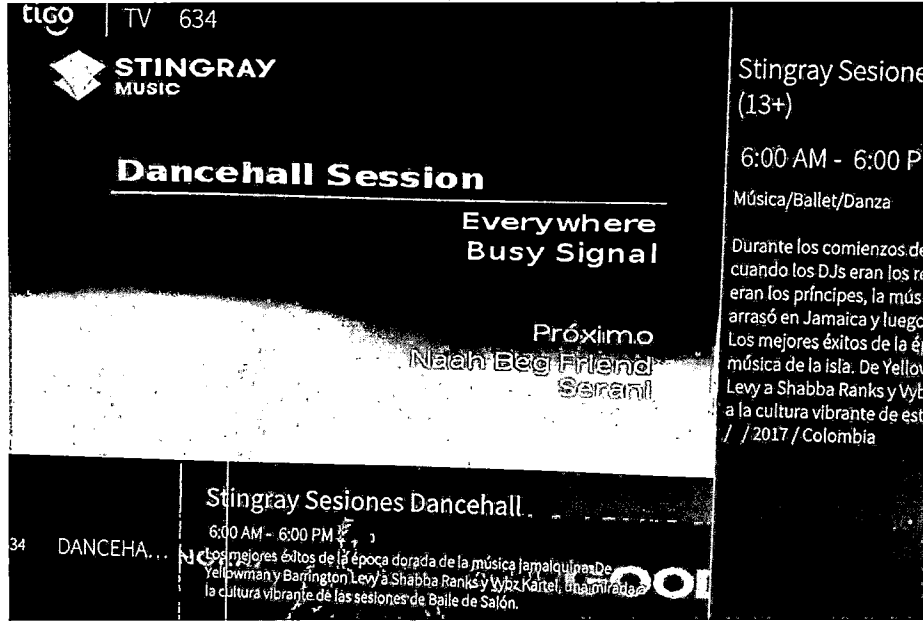
Enjoy music to match your mood with
Stingray Music!

- Go to channels 5100-5174 and press **OK** on your remote to begin listening.
OR
- Search within the Stingray Music app.
Press **GO INTERACTIVE** or tune to channel 500/1500 HD.

U-verse Internet service (Elite or higher) required.

107. Millicom Corporation operates under the corporate name "TIGO." TIGO offers mobile and TV streaming Products that in countries like Honduras, Paraguay, El Salvador, Bolivia, Guatemala, Nicaragua, and Colombia (Exhibit 35). The exhibit shows the mobile application and by using UbiquiCAST OSE2 (See Exhibit 10 at Pg. 82 and Exhibit 11 at Pg. 94) with the signal received by a Set Top Box, KAOM VMM 1003 Set Top Box.





108. Hence, Stingray Digital Group, Inc induces AT&T and Millicom / TIGO to infringe the Dr. Edwin Hernandez' patents.

109. On information and belief, and evidence shown in Exhibit 10 and 11, as well as the list of operators found in Exhibit 1 infringe on Dr. Hernandez' patents: '074, '002 and '441.

H. DR. HERNANDEZ COMMUNICATES WITH STINGRAY DIGITAL AND STINGRAY DIGITAL IS FULLY AWARE OF DR. HERNANDEZ PATENTS BEFORE THIS LAWSUIT

110. In and around September 15th, 2017, Dr. Hernandez' company EGLA signed a Non-Disclosure Agreement with Stingray Digital Group Inc, presenting them the patent-pending portfolio that once issued could be used for the litigation filed against Stingray by Music Choice at 2:16-cv-00876 with Judge Gilstrap in Texas (Exhibit 16).

111. On July 12th, 2019 once USPTO granted to Dr. Hernandez the '074 patent, presented to Stingray's board of director an offer to (Exhibit 22) in similar terms as made in 2017.

112. None of these communications made in 2017 and 2019 (Exhibit 24 and Exhibit 25) received any positive or negative feedback from Stingray's counsel. In fact, all the predictions made by Dr. Hernandez became true as Stingray paid \$13M to Music Choice for settlement, plus over \$9M that were paid to Greenberg and Traurig in legal fees (Exhibit 23 at Pg. 1) for a total patent licensing plus litigation cost of approximately \$21M. In the pleadings, Stingray was attempting to back out a binding settlement agreement signed by the parties (Exhibit 15 at MC-EGLA-000671) but finally accepted the terms.

113. Now, it is evident that Stingray had no need to purchase or license anything from Dr. Hernandez, as Stingray had illegally stolen Dr. Hernandez trade secrets and was already using its technologies.

114. Finally, Dr. Hernandez discovered trello.com round mid-April 2021 and reached out to Stingray Digital on April 20th, 2021 with his findings on trade secret theft and evidence of infringement, as well as how his trade secrets made it to Ubiquicast OSE2 server (Exhibit . The proposal included a licensing offer and an amicable settlement dated April 20th, 2021. Exhibit _ and Exhibit _

115. Therefore, Stingray Digital Group was fully aware of Dr. Hernandez patents as early as September 2017, following a PCT Publication date of June 30th, 2016⁶

I. STINGRAY RESPONDS TO CEASE AND DESIST LETTER AND ACCUSES DR. HERNANDEZ OF "ILLEGALLY AND IMPROPERLY ACCESSED STINGRAYS' PROPIETARY INFORMATION"

116. After, Dr. Hernandez reached out to Stingray Digital with his findings, attaching a licensing offer, and offering to settle amicable in a letter dated April 20th, 2021(Exhibit 26). The notification contains Dr. Hernandez cease and desist letter describing trade secret

⁶ <https://patentscope.wipo.int/search/en/detail.jsf?docId=WO2016106360>

misappropriation and patent infringement, the response made by AZA Law attorneys to Dr. Hernandez (Exhibit 27).

117. In that response, AZA Law improperly understands that UbiquiCAST server is on product. Stingray attorneys state that “Indeed, each of the UbiquiCAST software modules targeted by Dr. Hernandez, including but not limited to the StillPicGenerator, UbimetaServer and GalaxieAudioEngine, were written by Stingray *years before* the allegations in his own letter” (Exhibit 27 at Pg. 6).

118. In fact, Stingray attorneys contradict, testimony under oath filed during the Music Choice case, and combine several software versions, OSE1 and OSE2 of UbiquiCAST’s as if there was only one product that persisted for more than a decades without updates. Despite their knowledge of the case as shown in Exhibit 28 and Exhibit 28.1 show that AZA Law attorneys had become familiar with all aspects of Stingray’s technologies and merits, including the existence of two systems UbiquiCAST OSE1 and OSE2.

119. In information and belief, OSE1 was Galaxie (Exhibit 30 and 31) and OSE2 is Stingray Music, as shown by Stingray at <https://music.stingray.com/en/US/about-us>

*“Stingray Music was first launched in Canada as a pay TV audio service under the name Galaxie. On **September 30, 2014**, Stingray united all of its properties under the Stingray brand with Galaxie rebranded as Stingray Music.” (Emphasis added)*

120. In fact, Stingray’s and Music Choice’s experts admitted under oath that there were at least two software versions for UbiquiCAST: OSE1 and OSE2. OSE1 was available pre-2014 and OSE2 post 2014 (Exhibit 15 at MC-EGLA-000344, where Liberty had OSE1 UbiquiCAST in March 2014 and by April 2016 used OSE2 UbiquiCAST).

121. Therefore, AZA Law attorneys mistakenly believe that UbiquiCAST is a single “product” and attached as evidence Exhibit 30, named “Galaxie_OSE.pdf” that is pre-2014 software and a version prior to the rebranding to “Stingray Music,” and OSE2 as described in court documents.

122. Interestingly, the attorneys signing the response letter (Exhibit 28 and Exhibit 28.1) to Dr. Hernandez are the same attorneys that were fully aware of all details on Music Choice’s case and knew the differences between UbiquiCAST OSE1 and OSE2

123. In the same letter, AZA Law and Stingray accuse Dr. Hernandez that “has Illegally and Improperly Accessed Stingray’s Own Proprietary Information, Exposing Himself and EGLA to Liability,” when anyone can access the information at trello.com and is available online as shown in Exhibit 10 and 11. In essence Stingray acknowledges that the information that was released to the public and Dr. Hernandez accessed around from April 8th to April 20th, 2021 is proprietary and potentially was a trade secret.

124. Considering Defendants’ misappropriation and infringement of Dr. Edwin A. Hernandez’ media distribution technology, Dr. Edwin A. Hernandez brings this Complaint to prevent any further misuse of its proprietary information, to prevent Defendants from harming Dr. Hernandez’ reputation by accusing Dr. Hernandez of misappropriation of technology software with over 600 pages of detailed Stingray’s trouble tickets.

125. Therefore, Dr. Hernandez has not committed any misconduct nor has illegally gained access to Stingray’s source code. Quite the opposite, by its own admission Stingray was required to legally and properly access Dr. Hernandez’ servers and records, as warned by the letters sent to Stingray and Mood Media in 2014. The same level of care and intellectual property protection

Stingray requests is the same deserved by Dr. Hernandez's technologies, but now AZA attorneys appear to forget.

J. MOOD MEDIA MADE OVER \$16M of DOLLARS BY FORCING DR. HERNANDEZ TO COMPLETE A TRANSACTION UNDER FRAUDULENT GROUNDS

126. MOOD MEDIA negotiated a merger and acquisition agreement that was called "term sheet" while at the same time was selling DMX to Stingray Digital, when it had no intentions to honor the agreement and forced a \$16M transaction to complete, while handing Stingray "free" trade secrets and intellectual property owned by Dr. Hernandez.

127. MOOD MEDIA entered into an agreement around December 2013 and terminating the agreement on April 24th, 2014 with the only objective of completing a transaction and illegally transferring Dr. Hernandez' intellectual property to Stingray Digital Group, Inc.

128. MOOD MEDIA later asked to sign a "settlement" agreement under fraudulent premises where the Intellectual Property of Dr. Hernandez and EGLA CORP was not tampered, nor stolen, and not sold to Stingray.

129. Therefore, MOOD illicitly enriched from this action and put at risk trade secrets, software and Dr. Hernandez' assets.

K. STINGRAY MADE OVER US\$2B IN REVENUES FROM 2014 – 2023 AND DERIVED FROM THE STOLEN TRADE SECRETS FROM DR. HERNANDEZ

130. In the case between Music Choice and Stingray Digital, under oath, Music Choice's attorney argued that OSE1 was an inferior product (Exhibit 15 at MC-EGLA-000348). "*that OSE1 lacked the commercially-desirable features that were present in both OSE2 and Audio*

Service, while also explaining why he considered the missing features to be a significant disadvantage of OSE1.”

131. During the timeframe corresponding to 2014 to 2024 and after the DMX acquisition and the trade secret theft, Stingray completed an IPO raising C\$140M (over US\$112 M)⁷, raised its revenues from around \$80.6M per year in 2013 to C\$323M in revenues per year in 2023.⁸

132. The reviewed evidence indicates that AT&T generated profits loss to Music Choices, the competitor, of US\$14.6M in revenues and \$0.83M from Liberty. Revenues and value that shifted to Stingray as filed with the court under oath (see Exhibit 15 at MC-EGLA-000346)

133. In sum, the release of Ubiquicast OSE2 coincides with Stringray’s IPO and the raise of revenues and subscribers by Stingray. Dr. Ugone, Music Choice’s expert, was deposed by Stingray on this factor, and the court found his testimony and analysis on lost profits for AT&T and Liberty was reliable. In sum, Dr. Hernandez’ technologies were fundamental to “upgrade” OSE1 to OSE2 and hence catapult Stingray revenues, make acquisitions, and gain a leadership position in the industry.

134. Therefore, Stingray illegally enriched by hundreds of millions of dollars creating a superior product to OSE1, that in the Music Choice litigation and trello.com is OSE2, while Dr. Hernandez was deprived from its rights.

⁷ <https://finance.yahoo.com/news/stingray-ipo-values-music-provider-113-million-204755524--finance.html>

⁸ <https://corporate.stingray.com/financial-results/>

FIRST CAUSE OF ACTION

Misappropriation of Trade Secrets (Against Stingray and MOOD)

135. Dr. Edwin Hernandez incorporates all the above paragraphs as though fully set forth herein.

136. Dr. Hernandez technologies and trade Secrets were illegally accessed by Stingray and most claims are now infringed by UbiquiCAST OSE2. Dr. Hernandez' superior technology that catapulted OSE2 allowing Stingray in 2014 to gain AT&T and Liberty as customers that dropped Music Choice. In that way, Stingray and was able to rapidly grow from C\$83M in revenues per year to C\$300+ in 20223. Stingray successfully launched a successful IPO and reach 400M subscribers worldwide spread across over 700 Cable Operators worldwide.

SECOND CAUSE OF ACTION

Violation of Florida Uniform Trade Secret Act, Fl. Civ. Code § 688 et seq. (Against Stingray and MOOD)

137. Dr. Edwin Hernandez incorporates all of the above paragraphs as though fully set forth herein.

138. Dr. Hernandez technologies and trade Secrets were illegally accessed by Stingray and most claims are now infringed by UbiquiCAST OSE2. Dr. Hernandez' superior technology that catapulted OSE2 allowing Stingray in 2014 to gain AT&T and Liberty as customers that dropped Music Choice. In that way, Stingray and was able to rapidly grow from C\$83M in revenues per year to C\$300+ in 20223. Stingray successfully launched a successful IPO and reach 400M subscribers worldwide spread across over 700 Cable Operators worldwide.

139. Some of the facts and relevant events took place in Miami, Florida at offices controlled by MOOD that later were in control by Stingray.

THIRD CAUSE OF ACTION

Infringement of Patent No. 10,123,074 (Against all defendants, except MOOD)

140. Dr. Edwin Hernandez incorporates all the above paragraphs as though fully set forth herein.

141. The '074 patent is attached to this Complaint as Exhibit 18

142. Dr. Edwin Hernandez is the owner of all rights, and interests of the '074 Patent, including the right to bring this suit for injunctive relief and damages.

143. The '074 patent is valid and enforceable

144. Upon information and belief, Defendants makes, uses, offers for sale, sells, or imports certain services and products ("Accused Streaming Platforms"), including but limited to UbiquiCAST OSE2, including at least services that provide streaming music to Cable TV Operators, IPTV systems, and OTT Service Providers. in the United States and in this District that directly infringe one or more claims of the '074 Patent, literally or under the doctrine of equivalents, including at least claims 1 to 19 of the '074 Patent as set forth in the preliminary infringement claim chart attached as Exhibit 32.

145. On information and belief, Defendants contributes to their users' infringement of the '074 Patent by making, using, offering to sell, selling, and/or importing the music distribution that have no substantial non- infringing uses.

146. To the extent Defendant has infringed or continues to infringe after knowledge of the '074 Patent, such infringement is deliberate, knowing, and willful under 35 U.S.C § 271.

147. Dr. Edwin A. Hernandez, under 35 U.S.C. § 284, may recover damages adequate to compensate for defendant's infringement, but in no event less than a reasonable royalty for the use made of the invention by the infringer, together with interest and costs as fixed by the Court.

148. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Dr. Edwin A. Hernandez to recover treble damages and attorneys' fees.

FOURTH CAUSE OF ACTION

Infringement of Patent No. 10,524,002 (Against all defendants, Except Mood)

149. Dr. Edwin Hernandez incorporates all of the above paragraphs as though fully set forth herein.

150. The '002 patent is attached to this Complaint as Exhibit 19.

151. Dr. Edwin Hernandez is the owner of all rights, and interests of the '074 Patent, including the right to bring this suit for injunctive relief and damages.

152. The '002 patent is valid and enforceable

153. Upon information and belief, Stingray makes, uses, offers for sale, sells, or imports certain services and products ("Accused Streaming Platforms") including but limited to UbiquiCAST OSE2, including at least services that provide streaming music to Cable TV Operators, IPTV systems, and OTT Service Providers. in the United States and in this District that directly infringe one or more claims of the '002 Patent, literally or under the doctrine of equivalents, including at least claims 1-2 and 4-9 of the '002 Patent as set forth in the preliminary infringement claim chart attached as Exhibit 33.

154. On information and belief, Defendants contributes to their users' infringement of the '002 Patent by making, using, offering to sell, selling, and/or importing the music distribution that have no substantial non- infringing uses.

155. To the extent Defendant has infringed or continues to infringe after knowledge of the '002 Patent, such infringement is deliberate, knowing, and willful under 35 U.S.C § 271.

156. Dr. Edwin A. Hernandez, under 35 U.S.C. § 284, may recover damages adequate to compensate for defendant's infringement, but in no event less than a reasonable royalty for the use made of the invention by the infringer, together with interest and costs as fixed by the Court.

157. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Dr. Edwin A. Hernandez to recover treble damages and attorneys' fees.

FIFTH CAUSE OF ACTION

Infringement of Patent No. 11,140,441 (Against all defendants, except Mood)

158. Dr. Edwin Hernandez incorporates all of the above paragraphs as though fully set forth herein.

159. The '441 patent is attached to this Complaint as Exhibit 20

160. Dr. Edwin Hernandez is the owner of all rights, and interests of the '074 Patent, including the right to bring this suit for injunctive relief and damages.

161. The '441 patent is valid and enforceable

162. Upon information and belief, Stingray makes, uses, offers for sale, sells, or imports certain services and products ("Accused Streaming Platforms") including but limited to UbiquiCAST OSE2, including at least services that provide streaming music to Cable TV Operators, IPTV systems, and OTT Service Providers. in the United States and in this District that directly infringe one or more claims of the '441 Patent, literally or under the doctrine of

equivalents, including at least claims 1-14 and 16-26 of the '441 Patent as set forth in the preliminary infringement claim chart attached as Exhibit 34.

163. On information and belief, Defendants contributes to their users' infringement of the '002 Patent by making, using, offering to sell, selling, and/or importing the music distribution that have no substantial non- infringing uses.

164. To the extent Defendant has infringed or continues to infringe after knowledge of the '002 Patent, such infringement is deliberate, knowing, and willful under 35 U.S.C § 271.

165. Dr. Edwin A. Hernandez, under 35 U.S.C. § 284, may recover damages adequate to compensate for defendant's infringement, but in no event less than a reasonable royalty for the use made of the invention by the infringer, together with interest and costs as fixed by the Court.

166. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Dr. Edwin A. Hernandez to recover treble damages and attorneys' fees.

SIXTH CAUSE OF ACTION
Unjust Enrichment Law (Against Stingray and Mood)

167. Dr. Edwin Hernandez incorporates all of the above paragraphs as though fully set forth herein.

168. Defendants engaged in unlawful, unfair, and fraudulent business acts and practices.

169. Such acts and practices allowed Stingray to generate over US\$1,000 Million dollars in revenues and Stingray launched an IPO reaching around US\$300M in revenues per year in 2023

170. Mood Media raised over US\$16M from the DMX sale and has engaged in partnerships with Stingray digital that has generated more capital from the relationship created..

171. Defendants' business acts and practices were fraudulent in that a reasonable person would likely be deceived by their material misrepresentations and omissions. Defendants have

acquired and used Dr. Edwin Hernandez' confidential and proprietary trade secret information through material misrepresentations and omissions.

172. Dr. Hernandez is entitled to a share of the amount of money derived from the use of his intellectual property.

173. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Dr. Edwin A. Hernandez to recover treble damages and attorneys' fees.

SEVENTH CAUSE OF ACTION
Unfair Competition Under Fl. Law (Against Stingray and Mood)

174. Dr. Edwin Hernandez incorporates all of the above paragraphs as though fully set forth herein.

175. Defendants engaged in unlawful, unfair, and fraudulent business acts and practices.

176. Such acts and practices include, but are not limited to, misappropriating Dr. Hernandez's confidential and proprietary information.

177. Defendants' business acts and practices were unlawful as described above.

178. Defendants' business acts and practices were fraudulent in that a reasonable person would likely be deceived by their material misrepresentations and omissions. Defendants have acquired and used Dr. Hernandez' confidential and proprietary trade secret information through material misrepresentations and omissions.

179. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Dr. Edwin A. Hernandez to recover treble damages and attorneys' fees.

EIGHTH CAUSE OF ACTION
Common Law Fraud (Defendants Stingray and Mood Media)

180. Dr. Edwin Hernandez incorporates all of the above paragraphs as though fully set forth herein.

181. The agreements signed with MOOD MEDIA were deliberately signed an NDA and later a "Term sheet" that had no intention but to use this agreement for Dr. Hernandez to maintain its cloud platform, mobile applications, and its mobile platform active.

182. Fraudulent agreements and forcing a transaction with purposes of stealing trade secrets and information from Dr. Hernandez.

183. Dr. Hernandez is entitled to a recovery of damages derived from his fraud and punitive damages awarded.

184. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Dr. Edwin A. Hernandez to recover treble damages and attorneys' fees.

NINETH CAUSE OF ACTION
Libel and Slander (Against Stingray)

185. Dr. Edwin Hernandez incorporates all of the above paragraphs as though fully set forth herein.

186. Defendants are making libelous and slanderous allegations against Dr. Hernandez.

187. Dr. Hernandez simply accessed publicly available records and offered its services to Stingray.

188. Defendant should make all efforts to compensate Dr. Edwin Hernandez, affiliates, and partners for any slanderous and libelous allegations without any foundation.

189. A Declaratory Relief is requested to clarify Dr. Hernandez' reputation and all libelous and slanderous accusations, and proper compensation according to the law.

TENTH CAUSE OF ACTION
Breach of Contract (Against MOOD)

190. Dr. Edwin Hernandez incorporates all of the above paragraphs as though fully set forth herein.

191. MOOD Media signed a Non-Disclosure Agreement (NDA), a term sheet, and a mutual release/settlement agreement.

192. Dr. Hernandez and EGLA CORP agreed to settle the “term sheet” payments under the premise that MOOD had not share any trade secrets and information with Stingray. The evidence indicates that MOOD was misused and facilitated the misappropriation of trade secrets by Stingray and breaching the NDA.

193. MOOD breached the agreement and disclosed all proprietary nature of servers as if they were theirs, despite all denials made by Stingray, it is now evident that such disclosure took place.

194. Dr. Hernandez and EGLA CORP signed MOOD’s settlement agreement must be invalidated and all damages derived from the original agreement and other damages must be compensated by MOOD to Dr. Hernandez

PRAYER FOR RELIEF

WHEREFORE, Dr. Edwin A. Hernandez respectfully requests the following relief:

- a. Judgment in Dr. Edwin A. Hernandez favor and against Defendants infringe the ‘074, ‘002 and ‘441 patents
- b. For damages in an amount to be further proven at trial, including trebling of all damages awarded with respect to infringement of the ’074, ’002, and ‘441 patents;

- c. Any and all injunctive relief to which Dr. Edwin A. Hernandez is entitled, including but not limited to ongoing royalties for the patents, loss profits, to defendants infringement of the patents;
 - d. Any and all injunctive relief to which Dr. Edwin A. Hernandez is entitled but not limited to an injunction on all sales and importation of all streaming products that Stingray distributes in the United States;
 - e. For judgment that this is an exceptional case; For punitive damages;
 - f. For restitution;
 - g. For costs of suit incurred herein;
 - h. For prejudgment interest;
 - i. For declaratory judgment that Dr. Edwin Hernandez has not illegally accessed any proprietary information owned by defendants,
 - j. For attorneys' fees and costs; and
195. For such other and further relief as the Court may deem to be just and proper.

DEMAND FOR JURY TRIAL

Dr. Edwin A. Hernandez hereby demands trial by jury for all causes of action, claims, or issues in this action that are triable as a matter of right to a jury.

Respectfully submitted,

Dr. Edwin A. Hernandez

By: /s/ Edwin A. Hernandez

4890 NW 101st Ave,
Coral Springs, FL, 33076
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e-mail: edwinhm@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of April 1st, 2024, a true and correct copy of the foregoing was filed via the Florida Court eFiling Portal, which in turn will send a copy via electronic notice to:

Michael McBride, 1221 McKinney Suite 2500, Houston, TX, 77010;

By: /s/ Edwin A. Hernandez
Dr. Edwin A. Hernandez