

# EXHIBIT 23



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July 12<sup>th</sup>, 2019

Mr. Eric Boyko  
Chief Executive Officer - Stingray Digital  
Cc/ Louis-Robert Lemire  
730 Wellington Street,  
Montreal, Quebec, HC3 1T4, Canada.

Dear Mr. Boyko,

I understand your company is a defendant in a patent infringement litigation against Music Choice in the Eastern District of Texas. Alternatively, not long ago, Stingray Digital withdrew an offer to acquire Music Choice for \$120M.

In the past, I have contacted your attorneys at Greenberg and Traurig, and your VP of Legal, Mr. Lloyd Feldman, regarding the benefits to Stingray of our patented portfolio, specially signaled to them how our patents are an effective defense to the litigation you are in, and how they may fit into the future as your company becomes a media leader.

Our patented portfolio and software is called Cloud to Cable and it is an alternative non-infringing solution to Music Choice patents. As a matter of fact, our intellectual property was included and examined by the US Patent Office (USPTO) as part of the patent filing process. The USPTO should have compared our innovations with MC's patents. One of those patents is Del Baccaro's family that is currently used against your company in the litigation, therefore it is clear that our portfolio is a non-infringing alternative to Music Choice's patents.

Additionally, when your company acquired DMX from Mood Media a few years ago, your executives Gustavo Tonelli and Alejandro Cacciola requested my company to maintain our cloud-based service active while Stingray transitioned all operations from DMX to your control.

At that time, our company was transporting and distributing all DMX/Mood Media music to several cable operators in LATAM using some of our technologies.

Hence, our R&D and patents are a result of many years of software development and technological innovation.

Attached you can find a slide deck where we present to you with more details the contents of this letter.



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Our team believes that our portfolio will assist your company in two ways:

- First, Stingray will be able to mitigate or even eliminate damages from Music Choice's litigation and decrease uncertainty derived from Litigation. Stingray can present to the court and alternative non-infringing solution, a patent will be a definitive proof of that,
- And Second, Stingray will have access to a patented technology that is unique worldwide. This technological pioneering patent is a state-of-the-art technological innovation that will come to strengthen your IP portfolio.

From your annual reports, it is clear that your business has already spent millions of dollars in legal fees. I am an expert witness myself and can only guarantee you that as you prepare for trial, and attorneys file answering replies, and other motions, your legal bill will skyrocket even higher. In general, trial may account for a few million dollars and you will be presented to a jury and an unknown outcome.

In addition to the benefits presented herein, Stingray will have a more efficient and innovative technology by having access to our portfolio.

I am looking forward to hearing from you or your attorneys soon and discuss next steps. .

Best Regards,

A handwritten signature in black ink, appearing to read 'Edwin A. Hernandez', written over a horizontal line.

Dr Edwin A Hernandez  
Inventor and Chief Technology Officer  
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By **Dr. Edwin A. Hernandez Mondragon**  
Inventor and Owner  
edwinhm@eglacorp.com

# Licensing Business Case for Stingray Digital

Acquisition of a license for the 10,123,074  
patents and applications with EGLA CORP

## Issued Patents

- US Patent 9,363,562

## Applications

- None

Stingray's Patent Portfolio

# Markets and Stingray Income Statement



Revenues per Quarter (March 31, 2019) & Per Year	\$72,730,000 \$212,650,000
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Net Income per Quarter	\$3,942,000
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Market Cap	\$501M
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## Litigation with Music Choice

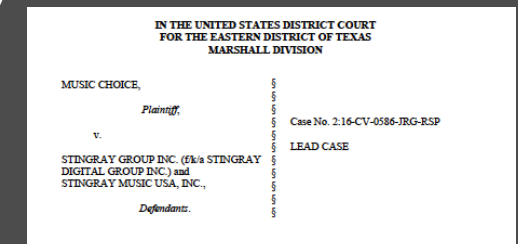
- Music Choice is jointly owned by Charter Communications, Comcast, Cox Communications, Sony Corporation of America, WarnerMedia, Arris, and Microsoft. The service offers audio and video music channels to pay TV and cable operators, counting Charter, Comcast, Cox and others among its customers.

## Per year

- |                  |                        |
|------------------|------------------------|
| • March 31, 2019 | \$16.8M                |
| • March 31, 2018 | \$10.6M                |
| • March 31, 2017 | \$4.6M                 |
| • March 31, 2016 | <u>Not a line item</u> |

Source: Annual Reports 2016-2019

# Legal and Litigation Expenses



## Exposure

- Stingray offered \$120M for Music Choice in 2018
  - Offer withdrawn Jan 2019 by Stingray Digital
- Erik Boyko, CEO of Stingray stated August 8<sup>th</sup>, 2018 that:
  - Music Choice had 70M subscribers
  - And, \$55M in Revenues per year
- Assuming a \$0.70c/subscriber per year
  - Music Choice lost AT&T, Altice USA, Optimum, Suddenlink, others.
  - Stingray Revenues in the US are \$9.4M per quarter, or \$34.4M per year in 2019
- **Eroded Market Share from Music Choice \$30M/year in 5 years close to \$150M in loss revenues. However Music Choice is apparently more expensive. Assuming 30% higher \$200M in 5 years: \$60-100M in loss profits**



# Music Choice, Dr. Keith Ugone Damages Report

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Music Choice Damages  
\$60-100M in loss profits

Report is Redacted,  
Values are speculated

This is a patent infringement action involving increasingly irrelevant technology—linear audio and video on demand (“VOD”) music channels transmitted to consumers by cable and satellite television providers. The number of cable and satellite television subscribers is rapidly declining each year. Nonetheless, MC’s damages expert, Dr. Keith R. Ugone, opined that MC suffered over [REDACTED] [REDACTED] in lost profits and price erosion damages based on the flawed assumption that, had Stingray not offered purportedly infringing products, the prices paid for MC’s services by its customers—i.e., the same cable and satellite television providers whose subscriber counts are *decreasing*—would not have changed. Dr. Ugone did not consider and/or discuss any market forces in making this assumption. Similarly, Dr. Ugone did not consider and/or discuss the ample evidence of [REDACTED] [REDACTED] several years before Stingray even entered the market with its allegedly infringing technology. Instead, Dr. Ugone simply looked at what MC’s customers agreed to pay immediately prior to Stingray’s alleged infringement,

# Music Choice, Dr. Keith Ugone Damages Report

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Music Choice Damages  
\$60-100M in loss profits

Report is Redacted,  
Values are speculated

## **B. Dr. Ugone's Opinions With Respect To Lost Profits Should Be Excluded**

Dr. Ugone opines that MC should be awarded \$99,999,999 in lost profits for infringement of the Visual Complement Patent and \$99,999,999 in lost profits for infringement of the VOD Linking Patents. (Supplemental Report (Ex. 13), Table 2.) “To recover lost profits, the patentee bears the burden of proof to show a reasonable probability that but for infringement, it would have made the sales that were made by the infringer.” *Presido Components, Inc. v. Am. Techn. Ceramics Corp.*, 875 F.3d 1369, 1380 (Fed. Cir. 2017) (citations omitted). “But-for causation can be proven using the test given in

Revised Date	Existing Date	Deadline
Aug. 5, 2016		File surreply briefs in opposition to motions to strike expert testimony filed May 31, 2019 (docket #186, 188, 192)
July 25, 2016		File reply briefs in support of motions to strike expert testimony filed May 31, 2019 (docket #186, 188, 192)
July 23, 2019		File briefs in opposition to dispositive motions filed May 31, 2019 (docket #187, 189, 190, 191, 193)
July 23, 2019	June 21, 2019	File Stingray's reply brief in support of Motion for Judgment on the Pleadings (docket #180)
July 16, 2019		File briefs in opposition to motions to strike expert testimony filed May 31, 2019 (docket #186, 188, 192)

(\*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

## Liability Increases – Calendar of Events

- Potential Exposure and Risk
- Liability Continues
- Uncertain Outcome, rolling the dice
- Legal Costs will rise between \$5M - \$10M
  - Reply to all motions
  - Trial costs

Revised Date	Existing Date	Deadline
November 8, 2019	July 26, 2019	*Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions in limine. The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
November 1, 2019	July 19, 2019	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i>
October 25, 2019	July 12, 2019	*File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.
October 18, 2019	July 5, 2019	File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
October 11, 2019	June 28, 2019	Serve Objections to Rebuttal Pretrial Disclosures
September 27, 2019	June 21, 2019	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
September 13, 2019	June 7, 2019	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
Aug. 15, 2016		File surreply briefs in opposition to dispositive motions filed May 31, 2019 (docket #187, 189, 190, 191, 193)
Aug. 7, 2016		File reply briefs in support of dispositive motions filed May 31, 2019 (docket #187, 189, 190, 191, 193)
Aug. 7, 2019		File Music Choice's surreply brief in opposition to Stingray's Motion for Judgment on the Pleadings (docket #180)

# Liability Continues for a few more months

- Liability Continues
- More court dates, more motions.
- Legal Costs will rise between \$5M - \$10M
  - Reply to all motions
  - Trial costs

continuing the trial date to December 2, 2019, it is hereby ORDERED that the following schedule of deadlines is in effect until further order of this Court:

Revised Date	Existing Date	Deadline
December 2, 2019	August 19, 2019	*Jury Selection – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap
November 12, 2019	July 29, 2019	*Pretrial Conference – 9:00 a.m. in Marshall, Texas before Judge Roy Payne. <sup>2</sup>

- December 2<sup>nd</sup>, 2019
- Marshall Texas, Judge Roy S. Payne
- Even after this could be appeals and more.

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<sup>2</sup> In accordance with its March 31, 2017 Order (docket #94), unless otherwise ordered by the Court, the Court will determine whether the Court should consolidate the claims asserted in the lead and

**Trial Day Set – December 2<sup>nd</sup>**





US010123074B2

(12) **United States Patent**  
**Hernandez-Mondragon**

(10) **Patent No.:** **US 10,123,074 B2**  
(45) **Date of Patent:** **Nov. 6, 2018**

(54) **METHOD, SYSTEM, AND APPARATUS FOR MULTIMEDIA CONTENT DELIVERY TO CABLE TV AND SATELLITE OPERATORS**

(58) **Field of Classification Search**  
CPC ..... H04N 21/440218; H04N 21/233; H04N 21/234309; H04N 21/2387;  
(Continued)

(71) Applicant: **Edwin A. Hernandez-Mondragon**,  
Coral Springs, FL (US)

(56) **References Cited**

(72) Inventor: **Edwin A. Hernandez-Mondragon**,  
Coral Springs, FL (US)

U.S. PATENT DOCUMENTS

(\*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

6,886,178 B1 4/2005 Mao et al.  
7,020,888 B2 3/2006 Reynolds et al.  
(Continued)

OTHER PUBLICATIONS

Justin Pot: "Save Videos From Any Site—Even Netflix—With Applian's Replay Capture Suite", Jun. 3, 2014 (Jun. 3, 2014), XP055472253, Retrieved from the Internet: URL:https://www.makeuseof.com/tag/savevideos- from-any-site-even-netflix-with-applians-replay-capture-suite/ [retrieved on May 3, 2018].

(Continued)

Primary Examiner — Hunter B Lonsberry  
(74) Attorney, Agent, or Firm — Fox Rothschild LLP

(21) Appl. No.: **15/538,911**

(22) PCT Filed: **Dec. 22, 2015**

(86) PCT No.: **PCT/US2015/067464**

§ 371 (c)(1),  
(2) Date: **Jun. 22, 2017**

(87) PCT Pub. No.: **WO2016/106360**

PCT Pub. Date: **Jun. 30, 2016**

(65) **Prior Publication Data**

US 2017/0374417 A1 Dec. 28, 2017

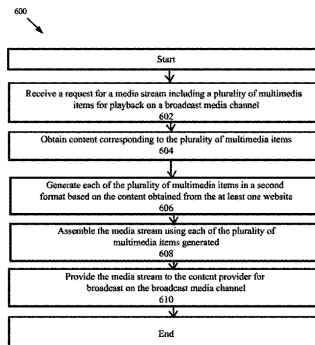
**Related U.S. Application Data**

(60) Provisional application No. 62/095,504, filed on Dec. 22, 2014.

(51) **Int. Cl.**  
**H04N 21/4402** (2011.01)  
**H04N 21/2343** (2011.01)  
(Continued)

(52) **U.S. Cl.**  
CPC ... **H04N 21/440218** (2013.01); **H04N 21/233** (2013.01); **H04N 21/2387** (2013.01);  
(Continued)

**21 Claims, 12 Drawing Sheets**



# Solution

Licensing of the 10,123,074 Portfolio of patents 'and software

# Analysis and Inventions on 10,123,074 Patent

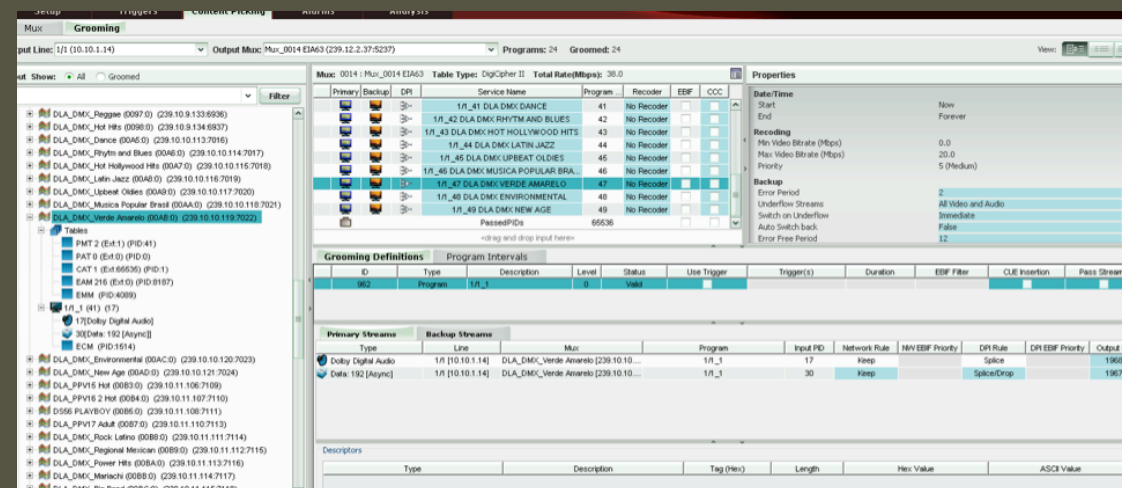
- **Linear and VOD Streaming of Music, Music + Video, or Video/TV to Cable TV Operators**
- Rendering of HTML-based webpages from temporal screen captures and creating video streams with audio ready for broadcasting to MPEG Systems (aka Cable TV, DTH) for Linear or VOD Broadcasting
- Creating all screen captures and storing them in MPEG Format for 2-way interaction (VOD)
- Deployment and distribution using virtual machines or instances
- CDN integrated for Web, Mobile, and Cable TV broadcasting
- Fault-tolerance and detection
- Multiple Streaming protocols supported





# Additional Intellectual Property

- Software for Cloud to Cable TV Appliance
  - Tested in Head ends in LATAM and US
- APIs and software for system and implementation
- Technical Assistance and Engineering Support





US Patent  
10,123,074  
Cites Patents  
in Dispute

Patent Citations (14)

Publication number	Priority date	Publication date	Assignee	Title
<a href="#">US20020138852A1</a>	2000-11-27	2002-09-26	Steven Reynolds	System and method for providing an omnimedia package
<a href="#">US20030115612A1</a>	1998-04-01	2003-06-19	Morecom, Inc.	Digital TV system with synchronized World Wide Web content
<a href="#">US7320025B1</a>	2002-03-18	2008-01-15	Music Choice	Systems and methods for providing a broadcast entertainment service and an on-demand entertainment service
<a href="#">US20080040354A1</a>	2006-08-10	2008-02-14	Qualcomm Incorporated	System and method for media content delivery
<a href="#">US20080098426A1</a> *	2006-10-23	2008-04-24	Candelore Brant L	Decoding multiple remote control code sets
<a href="#">US20090178003A1</a>	2001-06-20	2009-07-09	Recent Memory Incorporated	Method for internet distribution of music and other streaming content
<a href="#">US20100192178A1</a> *	2009-01-26	2010-07-29	Candelore Brant L	Capture of stylized TV table data via OCR
<a href="#">US20120204217A1</a>	2010-10-14	2012-08-09	Activevideo Networks, Inc.	Streaming Digital Video between Video Devices Using a Cable Television System
<a href="#">US20140068690A1</a>	2012-08-31	2014-03-06	General Instrument Corporation	Broadcast content to http client conversion
<a href="#">US20140098815A1</a> *	2012-10-10	2014-04-10	Telefonaktiebolaget L M Ericsson (Publ)	Ip multicast service leave process for mpls-based virtual private cloud networking
<a href="#">US20140143437A1</a>	2012-11-16	2014-05-22	Adobe Systems Incorporated	Converting Live Streaming Content to Video-on-Demand Streaming Content
<a href="#">US8769602B1</a>	2001-08-28	2014-07-01	Music Choice	System and method for providing an interactive, visual complement to an audio program
<a href="#">US20140351871A1</a>	2013-05-22	2014-11-27	Microsoft Corporation	Live media processing and streaming service
<a href="#">US20150319004A1</a> *	2007-08-31	2015-11-05	At&T Intellectual Property I, L.P.	System and method of monitoring video data packet delivery

- Visual Component Patent
- VOD Patents

Music Choice filed its original Complaint against the Corporation on June 6, 2016, asserting infringement of four U.S. patents, namely, U.S. Patent Nos. 8,769,602 (the '602 Patent), 9,357,245 (the '245 Patent), 7,320,025 (the '025 Patent) and 9,351,045 (the '045 Patent).

- ..... Dr. Ugone did not determine whether Stingray's \_\_\_\_\_ is an acceptable non-infringing alternative *as compared to MC's linear audio music channels*. Had he done this analysis, he would have determined that it is. (See Ugone Tr.

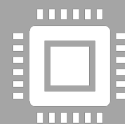
- Reply Brief No. 203 - Music Choice v. Stingray Digital

Cloud to Cable  
is a non-  
infringing  
alternative to  
MC's Patents

# Mitigation Strategy thru Licensing of an entire media streaming portfolio



US Patent: 10,123,074



US Patent application: 16/152,606



European Patent Application : EP3238457  
(A1)



Technology: Cloud to  
Cable TV Software

Used by DMX Media  
during the acquisition  
with Stingray Digital

Thank you  
Feel free to  
contact US

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