

**IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
DELAWARE**

EARIN AB,

Plaintiff,

v.

SKULLCANDY, INC.,

Defendant.

Civil Action No.:

TRIAL BY JURY DEMANDED

COMPLAINT

Plaintiff Earin AB (“Earin”) files this Complaint against Defendant Skullcandy, Inc. (“Skullcandy”).

NATURE OF THE CASE

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 101, *et seq.*, including U.S.C. § 271 for the infringement of United States Patent No. 9,402,120 (“the ’120 Patent”).

2. Defendant Skullcandy has been making, using, selling, offering for sale, and/or importing a line of wireless earbud products which enter an operational mode when disconnected from a charging case, automatically form a wireless connection between the earbuds, have true stereo capabilities with monoaural fallback modes, and automatically pair with audio streaming host devices, including without limitation the Skullcandy Mod True Wireless earbud products (collectively “the Accused Products”), which infringe the ’120 Patent in violation of 35 U.S.C. § 271.

3. Earin seeks appropriate damages and prejudgment and post-judgment interest for Skullcandy's infringement of the '120 Patent.

PARTIES

4. Backed by the Kickstarter community in 2014, Earin launched the original true wireless stereo ("TWS") M-1 earbuds on October 6, 2015. Earin has for the past nine years been known as a leading innovator of Bluetooth-enabled wireless earphone technologies.

5. Earin is a Swedish corporation with a principal place of business at Dockgatan 27, 211 12 Malmö, Sweden.

6. On information and belief, Defendant Skullcandy is a Delaware corporation with a principal place of business at 6301 N. Landmark Dr., Park City, Utah.

JURISDICTION & VENUE

7. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a).

9. This Court has personal jurisdiction over Defendant Skullcandy because Skullcandy is a Delaware corporation and therefore has continuous presence in, and systematic contact with, this District.

10. On information and belief, Skullcandy has committed and continues to commit acts of infringement in this Judicial District, and the claims addressed in this Complaint arise out of and relate to such acts, including at least by making, using, offering for sale, and selling the Accused Products within this District.

11. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Skullcandy is incorporated in this Judicial District and Skullcandy's infringing activities have occurred and are occurring in this Judicial District.

EARIN'S U.S. PATENT NO. 9,402,120

12. On July 26, 2016, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,402,120, entitled "Wireless Earbuds." A true and correct copy of the '120 Patent is attached as Exhibit A. The priority date of the '120 Patent is no later than September 5, 2014.

13. The '120 Patent is, *inter alia*, directed to a wireless earbud system where the earbud housing includes a loudspeaker element, a rechargeable battery, and a printed circuit board, such that when an earbud is disconnected from a battery charger, it exits from an idle mode, enters into an operational mode, and attempts to pair with another earbud to operate in true wireless stereo (TWS) mode. According to the wireless earbud system of the '120 Patent, if the connection to the other earbud fails, the earbud will operate in a mono audio receiver mode, and if the earbud's connection to a streaming host device fails, the earbud will initiate a pairing procedure to reconnect with a host device.

14. Earin AB is the owner, by assignment, of all right, title, and interest in and to the '120 Patent, including the right to bring suit for past, present, and future patent infringement, and to collect past, present, and future damages.

15. The '120 Patent is valid and enforceable under the United States Patent Laws.

MARKING

16. Plaintiff has never made, sold, used, offered to sell, or imported into the United States any article that practices any claim of the '120 Patent.

17. None of Plaintiff's licensees have ever made, sold, used, offered to sell, or imported into the United States any article that practices any claim of the '120 Patent.

18. Thus, 35 U.S.C. § 287(a) cannot prevent or otherwise limit Plaintiff's entitlement to damages for acts of infringement.

COUNT I:
INFRINGEMENT OF THE '120 PATENT

19. Earin incorporates by reference the allegations in the preceding paragraphs.

20. Skullcandy has made, used, offered for sale, and/or sold the Accused Products that incorporate one or more of the inventions claimed in the '120 Patent within the United States.

21. Skullcandy has infringed and continues to infringe, either literally or under the doctrine of equivalents, one or more claims, including at least claim 20, of the '120 patent in violation of 35 U.S.C. § 271, *et seq.*, by making, using, selling, and offering for sale, in this District and in the United States the Accused Products including, but not limited to, the Mod True Wireless earbud products.

22. Claim 20 of the '120 Patent provides:

[Preamble] A wireless earbud having an idle mode and an operational mode, the wireless earbud comprising:

[A] an earbud housing;

[B] a loudspeaker element;

[C] a rechargeable battery; and

[D] at least one main printed circuit board having disposed thereon circuitry for wireless radio communication, audio codec and earbud operation control;

[E] wherein the circuitry is configured for automatic power preservation by: detecting connection of said battery to a charger and in response entering the idle mode, wherein existing

connections to a second wireless earbud and to a wireless audio streaming host device will be disconnected; and

[F] detecting disconnection of said battery from said charger and in response entering the operational mode by: attempting a true wireless stereo, TWS, reconnection with the second wireless earbud;

[G] if the attempt is successful, operating the wireless earbud as a TWS audio receiver and otherwise operating the wireless earbud as a mono wireless audio receiver;

[H] if operated as a TWS audio receiver, determining whether the wireless earbud is a master device or a slave device with respect to the second wireless earbud;

[I] if the wireless earbud is determined to be a master device, attempting to reconnect with the wireless audio streaming host device and other known wireless audio streaming host devices if applicable; and

[J] if reconnection with the wireless audio streaming host device fails, initiate a pairing procedure with the wireless audio streaming host device and other known wireless audio streaming host devices if applicable.

23. Based on publicly available information, Skullcandy's Accused Products meet all elements of at least claim 20 of the '120 Patent.

24. Regarding the preamble of claim 20, to the extent the preamble is determined to be limiting, the Accused Products provide the features described in the preamble, which recites a "wireless earbud having an idle mode and an operational mode." The Accused Products, including at least the Skullcandy Mod True Wireless earbuds, turn off (i.e., enter "idle mode") when placed in the charging case¹ for charging, and will turn on (i.e. enter "operational mode") when removed from the case and inserted into the ears.²

¹ See <https://www.skullcandy.com/shop/earbuds/> (last visited February 7, 2024) [1]

² See <https://support.skullcandy.com/hc/en-us/articles/5992763171095-Mod> (last visited February 7, 2024) [2]

⏻ Power On / Off

Remove the earbuds from the case to power ON and connect. Place the earbuds in the case to power the earbuds OFF and charge. To manually power your earbuds ON, press and hold the button on either earbud for 1 second. To power OFF, double press the button, then press and hold for 1 second.

2 Place the earbuds in the charging case. The LEDs turn red. Remove the earbuds from the case.	3 Open Bluetooth settings on your device. Select Mod from the list of available devices.	4 Accept any PAIR or OK prompts. Your earbuds will connect to your device. They are now ready to use.
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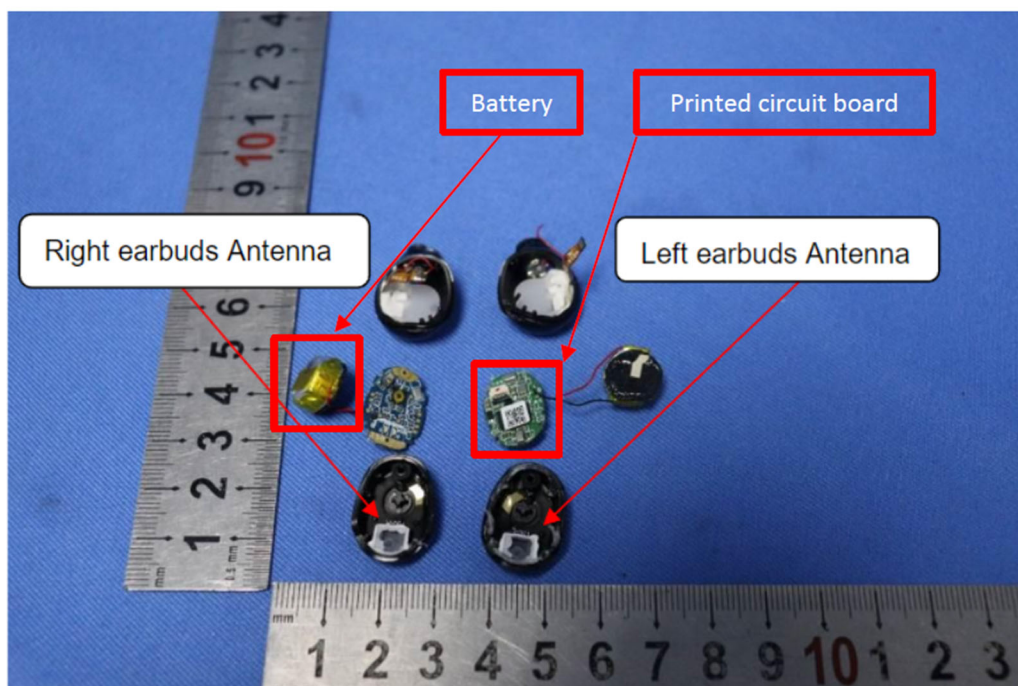
25. Limitations A through D respectively require the wireless earbud to have [A] an earbud housing; [B] a loudspeaker element; [C] a rechargeable battery; and [D] at least one main printed circuit board having disposed thereon circuitry for wireless radio communication, audio codec and earbud operation control. The Accused Products, including at least the Skullcandy Mod True Wireless earbuds, include an earbud housing, a loudspeaker, a rechargeable battery, and a printed circuit board which supports Bluetooth (i.e. “wireless radio communication”), multiple audio codecs, and earbud operations, such as play/pause and volume control.

26. The Mod True Wireless earbuds have a housing and a loudspeaker element as seen in the image below³:



³ See <https://www.skullcandy.com/shop/earbuds/> (last visited February 7, 2024) [1]

27. The Accused Products, including the Mod True Wireless earbuds, also have a rechargeable battery, as indicated in the tear-down image below.⁴ The batteries in this product are advertised as being “loaded with battery life” such that “[t]he earbuds hold up to 7 hours of play time.”⁵ Similarly, the charging case is advertised as holding enough charge to “fully charge[] the buds more than 3 times between plug-ins,” and “with Rapid Charge, just 10 minutes of charging will give you 2 hours of play time.”⁶



28. The Mod True Wireless earbuds also have at least one main printed circuit board, as indicated in the tear-down picture above, having circuitry for wireless radio communication, audio codec and earbud operation control. More specifically, on information and belief, the Mod True Wireless earbuds are “compatible with Bluetooth 5.2,” “support[] the AAC and SBC

⁴ See <https://fccid.io/Y22-S2FYW/Internal-Photos/Internal-Photos-5604207> (last visited February 7, 2024) [3]

⁵ See <https://www.skullcandy.com/mod-wireless-earbuds/> (last visited February 7, 2024) [5]

⁶ See <https://www.skullcandy.com/mod-wireless-earbuds/> (last visited February 7, 2024) [5]

Bluetooth codecs,” and provide on-ear controls with physical buttons.⁷ The Mod True Wireless earbuds also have customizable buttons that can be configured to preferred operational control settings.⁸

29. Limitation [E] requires “wherein the circuitry is configured for automatic power preservation by: detecting connection of said battery to a charger and in response entering the idle mode, wherein existing connections to a second wireless earbud and to a wireless audio streaming host device will be disconnected.”

30. As noted above with respect to the preamble, the Accused Products, including the Skullcandy Mod True Wireless earbuds automatically turn off (i.e. enter “idle mode”) and disconnect any Bluetooth connections when a connection to the charging case is detected. Skullcandy’s support documentation clarifies: “When your earbuds are placed correctly into the charge case, they will always be powered off as long as the case battery is charged. Typically, the LEDs will show solid RED to indicate they are powered off and charging.”⁹ On information and belief, when the earbuds are powered off, any existing connections to a second wireless earbud and/or to a wireless audio streaming host device will be disconnected.

31. Limitations [F] and [G] respectively require: “detecting disconnection of said battery from said charger and in response entering the operational mode by: attempting a true wireless stereo, TWS, reconnection with the second wireless earbud”; and “if the attempt is successful, operating the wireless earbud as a TWS audio receiver and otherwise operating the wireless earbud as a mono wireless audio receiver.”

⁷ See <https://www.pcmag.com/reviews/skullcandy-mod> (last visited February 7, 2024) [4]

⁸ See <https://support.skullcandy.com/hc/en-us/articles/5992763171095-Mod> (last visited February 7, 2024) [2]

⁹ See <https://support.skullcandy.com/hc/en-us/articles/5992763171095-Mod> (last visited February 7, 2024) [2]

32. The Accused Products, including the Skullcandy Mod True Wireless earbuds, meet these limitations by automatically attempting a Bluetooth connection when removal from the charging case is detected. Following which, the Skullcandy Mod True Wireless earbud syncs with the second earbud (forming a “TWS reconnection”). According to Skullcandy support documentation for the Accused Products, when you “[r]emove your earbuds from the case ... you will hear the power on ‘ping’ tone, this will indicate they have automatically powered on” and “each time you power on your earbuds they will automatically sync to the 2 most recently paired devices.”¹⁰

33. On information and belief, if only one earbud is used, or if the sync to the second earbud fails, then the earbud will operate as a mono wireless audio receiver. According to Skullcandy support documentation: “Both the left and right earbud of Mod can be used in solo mode. To use Solo Mode and you’ve previously paired to your earbuds, simply remove either earbud from the charge case and this solo earbud will function with both phone calls and music, as well as your hands-free voice controls. ... Both the left and right earbud of Mod can be used in solo mode. To use Solo Mode and you’ve previously paired to your earbuds, simply remove either earbud from the charge case and this solo earbud will function with both phone calls and music, as well as your hands-free voice controls.”¹¹ Likewise, if the earbuds fail to re-sync, this will result in audio only being played in one ear (i.e. operating as a mono wireless audio receiving).¹²

¹⁰ See <https://support.skullcandy.com/hc/en-us/articles/5992763171095-Mod> (last visited February 7, 2024) [2]

¹¹ See <https://support.skullcandy.com/hc/en-us/articles/5992763171095-Mod> (last visited February 7, 2024) [2]

¹² See <https://support.skullcandy.com/hc/en-us/articles/5992763171095-Mod> (last visited February 7, 2024) [2]

34. Limitations [H] and [I] respectively require: “if operated as a TWS audio receiver, determining whether the wireless earbud is a master device or a slave device with respect to the second wireless earbud”; and “if the wireless earbud is determined to be a master device, attempting to reconnect with the wireless audio streaming host device and other known wireless audio streaming host devices if applicable.”

35. On information and belief, with the Accused Products, including the Skullcandy Mod True Wireless earbuds, the earbud issuing the sync request to the other earbud and connecting to the wireless audio streaming device will be designated as the primary receiver (*i.e.*, the “master device”) and such other earbud will be the secondary receiver (*i.e.*, the “slave device”). As noted in support documentation for the Mod True Wireless earbuds, after operating an earbud in Solo Mode “[t]o use both earbuds again, simply remove the other bud from the case at any time, you will hear the power on ‘ping’ tone, and your audio begins to seamlessly stream back into Stereo Mode” and “each time you power on your earbuds they will automatically sync to the 2 most recently paired devices[.]”¹³

36. Limitation [J] requires “if reconnection with the wireless audio streaming host device fails, initiate a pairing procedure with the wireless audio streaming host device and other known wireless audio streaming host devices if applicable.”

37. On information and belief, in the operation of Accused Products, including the Skullcandy Mod True Wireless earbuds, after the earbuds are powered off (*i.e.*, causing

¹³ See <https://support.skullcandy.com/hc/en-us/articles/5992763171095-Mod> (last visited February 7, 2024) [2]

reconnection with the audio streaming host device to fail), upon being turned back on they will initiate a pairing procedure and “automatically sync to the 2 most recently paired devices.”¹⁴

38. Accordingly, Skullcandy has directly infringed and continues to directly infringe one or more claims of the '120 Patent, including at least representative claim 20, in violation of 35 U.S.C. §§ 271(a) by, without authority, making, using, offering for sale, and/or selling the infringing products, systems, methods, and/or computer programs within the United States and importing the infringing products, systems, methods, and/or computer programs into the United States.

39. Skullcandy's infringing activities have and continue to be without authority or license under the '120 Patent.

40. Earin has and continues to suffer damages as a direct and proximate result of Skullcandy's direct infringement of the '120 Patent.

41. Earin is entitled to recover: (i) damages adequate to compensate Earin for Sennheiser's direct infringement of the '120 Patent, which at a minimum, amounts to a reasonable royalty; (ii) attorney's fees; and (iii) costs.

JURY DEMAND

42. Pursuant to Federal Rule of Civil Procedure 38(b), Earin demands a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Earin respectfully requests judgment against Skullcandy as follows:

A. that this Court adjudge that Skullcandy infringes the '120 Patent;

¹⁴ See <https://support.skullcandy.com/hc/en-us/articles/5992763171095-Mod> (last visited February 7, 2024) [2]

B. that this Court ascertain and award Earin damages under 35 U.S.C. § 284 sufficient to compensate for Skullcandy's infringement, including but not limited to infringement occurring before the filing of this lawsuit;

C. that this Court ascertain and award Earin any post-judgment ongoing royalties under 35 U.S.C. § 284 as may be appropriate;

D. that this Court award Earin any applicable prejudgment and post-judgment interest; and

E. that this Court award Earin such other relief at law or in equity as the Court deems just and proper.

Dated: March 1, 2024

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Respectfully submitted,

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