

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SOUNDEXCHANGE, INC.,

Plaintiff,

v.

ACCURADIO, LLC,

Defendant.

Case No. 24-cv-6125
Hon. Matthew Kennelly

**CONSENT ORDER (I) WITHDRAWING PLAINTIFF’S REQUEST FOR
PRELIMINARY INJUNCTION WITHOUT PREJUDICE AND
(II) GRANTING OTHER STIPULATED AND AGREED RELIEF**

Before the Court is Plaintiff SoundExchange, Inc.’s (“Plaintiff” or “SoundExchange”) Motion for Entry of Preliminary Injunction [Dkt. 2]. Pursuant to Fed. R. Civ. P. 65, Defendant AccuRadio, LLC (“Defendant” or “AccuRadio”), together with SoundExchange (collectively, the “Parties”), hereby stipulate, agree, and consent to entry of this Consent Order (I) Withdrawing Plaintiff’s Request for Preliminary Injunction Without Prejudice, and (II) Granting Other Stipulated and Agreed Relief (the “Order”), which shall be effective immediately upon filing and shall remain in full force and effect until ordered otherwise by the Court, and shall be without prejudice to any claims and/or defenses that either party may have in this or any other proceeding.

The Order covers and is binding on those “who are in active concert or participation” with the Parties or the Parties’ officers, agents, servants, employees, or attorneys. Fed. R. Civ. P. 65(d)(2).

Upon consent of the Parties, by and through their respective undersigned counsel, and for good cause shown, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Motion for a Preliminary Injunction [Dkt. 2] is hereby withdrawn without prejudice, with reservation of Plaintiff's right to refile the Motion.

2. AccuRadio shall pay SoundExchange adequate protection in the form of *advance* monthly payments in the amount of \$210,000.00 on account of AccuRadio's estimated usage of the statutory license(s) until a final judgment is entered in the above-captioned matter (each a "Monthly Payment," and collectively, the "Monthly Payments"). The amount of each Monthly Payment shall be \$210,000 each month but shall be subject to change consistent with Paragraphs 3-4 of this Order and based upon (i) AccuRadio's average number of performances; and (ii) the current regulatory rate for non-subscription transmissions as calculated or set pursuant to 37 CFR § 380.1 and as adjusted by the Consumer Price Index ("CPI") (currently said rate is \$0.0025 per performance as of the date of this Order). Additionally, AccuRadio shall provide monthly Statements of Account and Reports of Use on a timely basis in accordance with the applicable regulations.

3. The Parties acknowledge that AccuRadio's Monthly Payment may vary from its actual monthly usage of the statutory license(s) for any given month or series of months. Defendant shall receive full credit for payments received by SoundExchange under this Order against liability owed to SoundExchange as determined by the Court or by agreement of the Parties.

4. Accordingly, Defendant shall pay a minimum total of \$210,000.00 per month as its Monthly Payment, until the resolution of this litigation or further order of the Court. As set forth above and herein, the Parties may agree in writing to adjustment of the amount of the Monthly Payment for a given month or series of months from time to time, without further order of the Court.

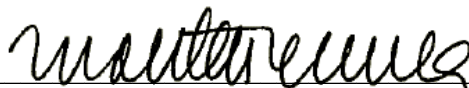
5. The first Monthly Payment shall be paid by Defendant to Plaintiff on October 1, 2024 in the amount of \$210,000.00. The Monthly Payment for each month thereafter shall be \$210,000 and shall be paid on the first day of each month, but shall be subject to adjustment by the Parties consistent with the terms of Paragraphs 3-4 of this Order. Notwithstanding the foregoing, should the first day of the month fall on a Saturday, Sunday, or federal holiday in a given month, then the Monthly Payment for that month shall be due on the next business day following such Saturday, Sunday, or federal holiday.

6. If Defendant defaults on its Monthly Payment for any given month, including but not limited to failing to make any required payments or meet other obligations included in this Order, Plaintiff reserves the right to: (1) refile its Motion for Preliminary Injunction; (2) request an expedited briefing schedule; and/or (3) seek any other appropriate relief. AccuRadio reserves its rights to raise all defenses available to it: (1) in responding to the Motion for Preliminary Injunction to the extent re-filed; and/or (2) in relation to any other relief sought by SoundExchange, including but not limited to Plaintiff's request of an expedited briefing schedule.

7. Each party shall bear its own costs with respect to the Motion for a Preliminary Injunction.

SO ORDERED.

DATE: 9/27/2024



MATTHEW F. KENNELLY
United States District Judge

Prepared and consented to by:

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