

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

PERSONAL AUDIO, LLC

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v.

LOTZI DIGITAL, INC. and A  
PARTNERSHIP CONSISTING OF ADAM  
CAROLLA, DONNY MISRAJE, KATHEE  
SCHNEIDER-MISRAJE, SANDY GANZ  
AND DOES 1-10, INCLUSIVE dba "ACE  
BROADCASTING" and/or "CAROLLA  
DIGITAL"

Case No. 2:13-CV-14-JRG-RSP

**ORDER**

Currently before the Court is the Report and Recommendation filed by Magistrate Judge Payne on March 3, 2014 (Dkt. No. 41) regarding Plaintiff Personal Audio's Motion to Dismiss Defendant Lotzi Digital, Inc.'s ("LDI") affirmative defenses and counterclaims for failure to state a claim upon which relief can be granted (Dkt. 14, filed August 5, 2013, referred to herein as the "Motion"). No objections having been filed and for the reasons set forth in the Court's Report and Recommendation, the Recommendation is adopted. Accordingly,

IT IS ORDERED that Personal Audio's Motion to Dismiss Defendant LDI's affirmative defenses and counterclaims for failure to state a claim upon which relief can be granted (Dkt. 14) is **DENIED**.

**So Ordered and Signed on this**

**Mar 31, 2014**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE