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5 Attorneys for Plaintiff
6 IPVENTURE, INC.

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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 IPVENTURE, INC.)
13)
14 Plaintiff,) Case No. C 12-04143 JSW
15)
16 v.)
17)
18 ASUSTEK COMPUTER INC.,)
19 ASUS COMPUTER INTERNATIONAL,)
20)
21 Defendants.)
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24)
25)

26 **FOURTH AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

27 Plaintiff IpVenture, Inc. ("IpVenture") hereby pleads the following claims for patent
28 infringement¹ against Defendants ASUSTeK Computer Inc. and ASUS Computer International
and alleges as follows:

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¹ IpVenture's claims against ASUS were originally asserted in a multi-defendant lawsuit in the United States District Court for the District of Delaware (C.A. No. 11-588-RGA) in which the Court, pursuant to ASUS's motion, entered an Order severing and transferring the claims against ASUS to this Court. This amended complaint omits references to the other defendants from the District of Delaware action, but the actions against those defendants are ongoing.

THE PARTIES

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2 1. Plaintiff IpVenture Inc. is a corporation organized and existing under the laws of
3 the State of California, having its principal place of business at 5150 El Camino Real, Building A,
4 Suite 22, Los Altos, California 94022.

5 2. On information and belief, Defendant ASUSTeK Computer Inc. is a corporation
6 organized and existing under the laws of Taiwan, having a principal place of business at
7 ASUSTeK Computer Inc., 4F, 150, Li-Te Road, Beitou District, Taipei City, Taiwan, R.O.C.
8 ASUSTeK Computer Inc. is a multinational company which, among other things, provides
9 personal computer products and services worldwide. According to ASUSTeK Computer Inc.'s
10 website, the company has a "global staff of more than ten thousand" and 2008 revenues of \$8.1
11 billion. ASUSTeK Computer Inc. conducts business throughout the United States, including in
12 this judicial district. On information and belief, ASUSTeK Computer Inc. operates throughout the
13 United States personally and through its wholly-owned subsidiary, ASUS Computer International,
14 and transacts business in this judicial district, including by selling and offering for sale of its
15 products.
16 products.

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18 3. On information and belief, Defendant ASUS Computer International is a
19 corporation organized and existing under the laws of the state of California, having its principal
20 place of business at 800 Corporate Way, Fremont, CA 94539. On information and belief, ASUS
21 Computer International operates throughout the United States and transacts business in this
22 judicial district, including the sale and offering for sale of its products in this judicial district.
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24 4. Defendant ASUS Computer International is a wholly-owned subsidiary of
25 ASUSTeK Computer Inc. As such, in this complaint, ASUSTeK Computer Inc. and ASUS
26 Computer International are at times collectively referred to as "ASUS."
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THE ASSERTED PATENTS

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2 5. IpVenture owns fundamental patents relating to thermal and power management
3 techniques that are widely implemented in personal computers, including notebook computers.
4 These fundamental patents include a family of nine issued patents that claim priority to the same
5 parent application, including the four patents at issue in this action: United States Patent No.
6 7,937,599; United States Patent No. 7,506,190; United States Patent No. 6,487,668; and United
7 States Patent No. 7,167,993 (the "patents-in-suit").

8 6. United States Patent No. 7,937,599 (the "'599 patent"), entitled "Thermal and
9 Power Management for Computer Systems," was duly and legally issued on May 3, 2011.
10 IpVenture is the owner by assignment of the entire right, title and interest in and to the '599 patent,
11 and holds the right to sue and recover for past, present, and future infringement. The '599 patent
12 contains claims directed to "[a]n apparatus for thermally managing temperature of a
13 microprocessor provided within a computer system" and "[a] fan controller integrated circuit for a
14 computer system, the computer system including at least a processor integrated circuit and a multi-
15 speed fan." A true and correct copy of the '599 patent is attached as Exhibit A.

16 7. United States Patent No. 7,506,190 (the "'190 patent"), entitled "Thermal and
17 Power Management for Computer Systems," was duly and legally issued on March 17, 2009.
18 IpVenture is the owner by assignment of the entire right, title and interest in and to the '190 patent,
19 and holds the right to sue and recover for past, present, and future infringement. The '190 patent
20 contains claims directed to a "method for managing operation of a computer" and a "computing
21 device" with certain characteristics. A true and correct copy of the '190 patent is attached as
22 Exhibit B.

23 8. United States Patent No. 6,487,668 (the "'668 patent"), entitled "Thermal and
24 Power Management to Computer Systems," was duly and legally issued on November 26, 2002.
25 IpVenture is the owner by assignment of the entire right, title and interest in and to the '668 patent,
26 and holds the right to sue and recover for past, present, and future infringement. The '668 patent
27 contains claims directed to "[a] computing apparatus," "[a] computer," and "[a] method for
28

1 providing thermal management for a computer." A true and correct copy of the '668 patent is
2 attached as Exhibit C.

3 9. United States Patent No. 7,167,993 (the "'993 patent"), entitled "Thermal and
4 Power Management For Computer Systems," was duly and legally issued on January 23, 2007.
5 IpVenture is the owner by assignment of the entire right, title and interest in and to the '993 patent,
6 and holds the right to sue and recover for past, present, and future infringement. The '993 patent
7 contains claims directed to "[a] computer" with certain characteristics. A true and correct copy of
8 the '993 patent is attached as Exhibit D.

9 10. The patents-in-suit are directed toward improved approaches to providing thermal
10 and power management for a computing device. One or more approaches described in the patents-
11 in-suit facilitate intelligent control of a processor's clock frequency and/or a fan's speed so as to
12 provide thermal and/or power management for the computer.

13 11. In the early 1990's, when the inventors conceived of the inventions claimed in the
14 patents-in-suit, the computer industry focused on delivering computers with processors (e.g.,
15 CPUs) operating at ever-higher processor speeds. But as computer processors get faster and
16 smaller, they run hotter, resulting in a greater need to prevent the processors from overheating
17 while maintaining performance. If the processor overheated, the computer would shut down, not
18 function as intended, or suffer damage. Slowing down the frequency at which a processor
19 operates (referred to as "throttling") reduces both power consumption and heat, but by itself can
20 reduce performance. Speeding up a fan can increase cooling of the processor, but also increases
21 power consumption and noise. The IpVenture patents-in-suit address this problem by disclosing
22 and claiming systems and methods that use these and other approaches together in a dynamic way
23 to "facilitate intelligent control of a processor's clock frequency and/or a fan's speed so as to
24 provide thermal and/or power management for the computing device." *See, e.g.,* '190 patent,
25 Abstract.

26 12. The intelligent and efficient control of the microprocessor and fan help prevent
27 overheating of the system while maximizing processor performance. This is especially useful in
28 portable computers because energy conservation is an important factor for such computers. *See,*

1 e.g., '190 patent, column 2, lines 24-54; column 8, lines 8-40. Intelligently "throttling" the
2 processor and adjusting the fan speed based on temperature to maintain performance are now
3 common in computers.

4 13. Similarly, it is common for today's notebook computers to operate in accordance
5 with power management policies that depend on, for example, whether or not the computer is
6 powered by a battery and then to operate the processor and fan in accordance with those power
7 management policies. The '190 patent, for example, is directed at the different power management
8 policies that are common in today's computers. For example, in one or more aspects disclosed
9 and/or claimed in the '190 patent, the computer system includes a microprocessor, one or more
10 temperature sensors, a variable speed fan, and a power management module. The power
11 management module operates the microprocessor according to a first or second power
12 management policy based on the temperature of the processor. The system also controls the
13 operational speed of the fan based on the power management policy. These attributes are common
14 in modern computer design, and are important to allow the computer to function as intended.

15 14. IpVenture also is informed and believes that ASUS's computers are compliant with
16 an industry specification referred to as the Advanced Configuration and Power Interface
17 Specification or "ACPI". ACPI provides detailed guidance regarding a common thermal
18 management architecture for personal computers. The ACPI specification provides in part:

19 The Advanced Configuration and Power Interface (ACPI) specification was developed to
20 establish industry common interfaces enabling robust operating system (OS)-directed
21 motherboard device configuration and power management of both devices and entire
22 systems.

22 ACPI Specification v.3.0b at 1 (October 10, 2006); ACPI Specification v. 4.0a (April 5, 2010).
23 The ACPI specification details protocols for employing the combination of active and passive
24 cooling modes. Examples of active cooling modes involve turning on a fan, whereas passive
25 cooling modes reduce system performance by throttling the frequency at which the processor
26 operates.

1 **JURISDICTION AND VENUE**

2 15. This is an action for patent infringement under the Patent Laws of the United States
3 of America, 35 U.S.C. §§ 1 *et seq.*, including § 271. This Court therefore has subject matter
4 jurisdiction over the matters pleaded herein under 28 U.S.C. §§ 1338(a) and 1331.

5 16. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 (b) and (c)
6 because, among other reasons, Defendants ASUSTeK Computer Inc. and ASUS Computer
7 International are subject to personal jurisdiction in this District and have committed acts of
8 infringement in this District. On information and belief, Defendants have sold and offered for sale
9 infringing products in this District. IpVenture and ASUS Computer International reside in this
10 district. Moreover, ASUS requested venue in this District: The case was transferred to this
11 judicial district upon ASUS's Motion to Sever and Transfer to the Northern District of California.
12 (D.I. 65, D. Del., C.A. No. 11-588-RGA.)

13 17. Joinder of the Defendants in this case is proper because ASUS Computer
14 International is a wholly-owned subsidiary of ASUSTeK Computer Inc.

15 18. Joinder of the Defendants in this case is also proper pursuant to Fed. R. Civ. Proc.
16 20(a)(2) and the Leahy-Smith America Invents Act of 2011, H.R. 1249, 112th Cong. § 299 (2011)
17 ("AIA"). IpVenture's claims for relief asserted against the Defendants for infringement of the
18 '599, '190, '668, and '993 patents arises out of the same transaction, occurrence, or series of
19 transaction or occurrences, and questions of law or fact common to the Defendants will arise in the
20 action. All of the claims for relief alleged herein arise under the same patents-in-suit, namely
21 IpVenture's '599, '190, '668, and '993 patents.

22 **FIRST CLAIM FOR RELIEF FOR PATENT INFRINGEMENT**

23 **(Direct Infringement of U.S. Patent No. 7,937,599)**

24 19. IpVenture hereby incorporates the allegations of Paragraphs 1 through 18 as if fully
25 set forth herein.

26 20. The '599 patent includes 28 claims. By way of example, claim 1 of the '599 patent
27 recites:
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1 1. An apparatus for thermally managing temperature of a microprocessor
2 provided within a computer system, the microprocessor operates in accordance
3 with a clock having a clock frequency, the computer system including a fan
4 controllably operable to cool at least a portion of the computer system, said
5 apparatus comprising:

6 a first electrical connection to a temperature sensor, the temperature sensor
7 being provided within the microprocessor;

8 a comparison circuit configured to compare a temperature indication
9 provided at least in part by the temperature sensor via said first electrical
10 connection with at least one of a plurality of temperature values to produce
11 comparison data; and

12 a second electrical connection configured to provide the comparison data
13 for managing the temperature of the microprocessor based at least in part on the
14 temperature indication provided at least in part by the temperature sensor,

15 wherein the at least one of the plurality of temperature values to be
16 utilized by the comparison circuit differs depending on an operational mode,

17 wherein in one operational mode the fan is activated when needed to
18 maintain high processing power, and

19 wherein in another operational mode the fan is activated when necessary
20 to maintain reasonable processing power, which is lower than the high processing
21 power.

22 21. IpVenture is informed and believes, and thereon alleges, that ASUS has infringed
23 and is currently infringing at least apparatus claims 1, 13, and 18 of the '599 patent in violation of
24 35 U.S.C. § 271 by, among other things, making, using, selling, offering to sell, and/or importing
25 within this judicial district and elsewhere in the United States, without authority or license from
26 IpVenture, ASUS brand computers, including notebook computers, that contain and/or utilize
27 thermal management apparatus and/or methods and meet the limitations of one or more claims of
28 the '599 patent, including at least claims 1, 13, and 18.

1 22. The infringing ASUS brand computers that contain and/or utilize thermal
2 management apparatus and/or methods and meet the limitations of one or more claims of the '599
3 patent, including at least claims 1, 13, and 18, include, but are not limited to, the ASUS brand
4 computers bearing the model or designation known as the N76 Series, N56 Series, M51 Series,
5 G55 Series, G75 Series, K55 Series, K53 Series, K73 Series, B23 Series, P55VA Series, P45
6 Series, B43 Series, B53 Series, P43 Series, P53 Series, U47 Series, UL30 Series, UX32 Series,
7 S46 Series, S56 Series, U31 Series, U36 Series, UX21 Series, and UX31 Series of computers.

8 23. ASUS directly infringes the '599 patent. ASUS brand computers constitute an
9 "apparatus for thermally managing temperature of a microprocessor provided within a computer
10 system, the microprocessor operates in accordance with a clock having a clock frequency, the
11 computer system including a fan controllably operable to cool at least a portion of the computer
12 system" comprising the elements of at least claim 1 of the '599 patent. These infringing ASUS
13 computers are made, used, sold, or imported with components, hardware and/or software,
14 including an Intel microprocessor that operates in accordance with a clock having a clock
15 frequency and is throttled based on the temperature of the processor, temperature sensors, one or
16 more variable speed cooling fans, software such as an operating system (e.g., Microsoft
17 Windows), firmware, software drivers, and embedded controllers. The ASUS brand computers
18 also operate in accordance with more than one operational mode, such as when the computer is
19 plugged in or powered by battery. Technical details regarding the ASUS brand computers further
20 evidencing the structure and operation of ASUS brand computers are in the possession of ASUS
21 and are expected to be produced to IpVenture during this action and provide additional evidence
22 of ASUS's infringement.

23 24. The claims identified and the allegations regarding the ASUS brand computers
24 herein are exemplary. IpVenture reserves the right to identify additional claims of the '599 patent
25 and details regarding the alleged infringement in contentions, disclosures and discovery provided
26 during these proceedings, including pursuant to the Court's Local Rules.

27 25. To the extent that facts learned in discovery show that ASUS had actual knowledge
28 of the '599 patent from the time the '599 patent issued in May 2011, IpVenture reserves the right to

1 amend the complaint to allege that ASUS actively induced infringement and/or contributed to the
2 infringement of the '599 patent and request such a finding at time of trial. Given that ASUS
3 indisputably had knowledge of IpVenture's allegations of infringement of the '599 patent no later
4 than November 28, 2011, IpVenture also reserves the right to amend its pleading, or to allege in a
5 separate or supplemental pleading, that ASUS actively induced infringement and/or contributed to
6 the infringement of the '599 patent and to seek such additional relief to which IpVenture may be
7 entitled.

8 26. To the extent that facts learned in discovery show that ASUS's infringement of the
9 '599 patent is or has been willful, IpVenture reserves the right to request such a finding at time of
10 trial.

11 27. ASUS's acts of infringement have caused damage to IpVenture, and IpVenture is
12 entitled to recover from ASUS the damages sustained as a result of ASUS's wrongful acts in an
13 amount yet to be determined and subject to proof at trial. Unless enjoined, ASUS's infringement
14 of IpVenture's rights under the '599 patent will to continue to damage IpVenture, causing
15 IpVenture irreparable injury as a direct and proximate result of ASUS's conduct.

16 **SECOND CLAIM FOR RELIEF FOR PATENT INFRINGEMENT**

17 **(Direct Infringement of U.S. Patent No. 7,506,190)**

18 28. IpVenture hereby incorporates the allegations of Paragraphs 1 through 18 as if fully
19 set forth herein.

20 29. The '190 patent includes 26 claims. By way of example, claim 11 of the '190 patent
21 recites:

22 11. A computing device, comprising:

23 a battery for providing a power source;

24 a processor configured to operate at an operational speed;

25 a temperature sensor configured to monitor a temperature of said

26 processor;

27 a fan for cooling at least said processor; and
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1 a power management module configured (i) to operate said processor in
2 accordance with a first power management policy and based on the temperature of
3 said processor when said computing device is being powered by said battery, and
4 (ii) to operate said processor in accordance with a second power management
5 policy and based on the temperature of said processor when said computing
6 device is not being powered by said battery; wherein said computing device is
7 further configured to control an operational speed of said fan based on the
8 appropriate one of the first and second power management policies.

9 30. IpVenture is informed and believes, and thereon alleges, that ASUS has infringed
10 and is currently infringing at least apparatus claims 11-13, 15-16, and method claims 1-3, 5, 6, 9-
11 10, 18-22, 25, and 26 of the '190 patent in violation of 35 U.S.C. § 271 by, among other things,
12 making, using, selling, offering to sell, and/or importing within this judicial district and elsewhere
13 in the United States, without authority or license from IpVenture, ASUS brand computers,
14 including notebook computers, that contain and/or utilize thermal management apparatus and/or
15 methods and meet the limitations of one or more claims of the '190 patent, including at least
16 claims 1-3, 5, 6, 9-13, 15-16, 18-22, 25, and 26.

17 31. The infringing ASUS brand computers that contain and/or utilize thermal
18 management apparatus and/or methods and meet the limitations of one or more claims of the '190
19 patent, including at least claims 1-3, 5, 6, 9-13, 15-16, 18-22, 25, and 26, include, but are not
20 limited to, the ASUS brand computers bearing the model or designation known as the N76 Series,
21 N56 Series, M51 Series, G55 Series, G75 Series, K55 Series, K53 Series, K73 Series, B23 Series,
22 P55VA Series, P45 Series, B43 Series, B53 Series, P43 Series, P53 Series, U47 Series, UL30
23 Series, UX32 Series, S46 Series, S56 Series, U31 Series, U36 Series, UX21 Series, and UX31
24 Series of computers.

25 32. ASUS directly infringes the '190 patent. The infringing computer products are
26 made, used, sold, or imported with components, hardware, and/or software, including a battery
27 that provides a power source, an Intel microprocessor configured to operate at an operational
28 speed, a temperature sensor configured to monitor a temperature of the microprocessor, a fan for

1 cooling at least the microprocessor, a power management module (including hardware and
2 software components) that is configured to operate the microprocessor in accordance with a first
3 or a second power management policy and based on the temperature of the microprocessor
4 depending on whether the computer is powered by the battery or plugged in; and a computer that
5 is configured to control the speed of the fan based on the first and second power management
6 policies. Technical details regarding the ASUS computers further evidencing the structure and
7 operation of ASUS computers are in the possession of ASUS and are expected to be produced to
8 IpVenture during this action and provide additional evidence of ASUS's infringement.

9 33. Claim 1 of the '190 patent recites:

10 1. A method for managing operation of a computer, the computer including at least
11 a processor and a fan for cooling at least the processor, said method comprising:

12 configuring the computer to utilize a first power management policy when the
13 computer is powered by a battery;

14 configuring the computer to utilize a second power management policy when the
15 computer is not powered by a battery;

16 setting an operational speed of the fan based on the appropriate one of the first and
17 second power management policies;

18 monitoring a temperature of the processor; and

19 setting an operational speed of the processor based on the appropriate one of the
20 first and second power management policies and based on the temperature of the
21 processor.

22 34. On information and belief, ASUS practices the steps of claim 1 by, for example,
23 manufacturing, using, selling, offering for sale, configuring, operating, and/or testing the ASUS
24 brand computers. The ASUS brand computers contain a processor (e.g., Intel CPU) and a fan for
25 cooling at least the processor, and contain a method for managing operation of the computer
26 through software and hardware components. ASUS manufactures the ASUS brand computers,
27 and include software and hardware specifically configured in accordance with power management
28 policies to manage the operation of the computer.

1 35. Claim 1 of the '190 patent recites "configuring the computer to utilize a first power
2 management policy when the computer is powered by a battery." ASUS brand computers include
3 software and/or hardware, including but not limited to the ASUS Power 4 Gear utility, Microsoft
4 Window's Power Options menu, ACPI, BIOS, and embedded controller. Each ASUS brand
5 computer is configured or configurable through, for example, the ASUS Power 4 Gear utility,
6 Microsoft Window's Power Options menu, ACPI, or BIOS to operate in one of several power
7 schemes and setting (such as High Performance, Quiet Office, and Battery Saving) when the
8 computer is in Battery Mode. ASUS performs this step at least when it manufactures and
9 configures the ASUS brand computers and through operation and/or testing of the ASUS brand
10 computers.

11 36. Claim 1 of the '190 patent further recites "configuring the computer to utilize a
12 second power management policy when the computer is not powered by a battery." Each ASUS
13 brand computer is configured or configurable through, for example, the ASUS Power 4 Gear
14 utility, Microsoft Window's Power Options menu, ACPI, or BIOS to operate in one of several
15 power schemes and setting (such as High Performance, Quiet Office, and Battery Saving) when
16 the computer is in AC Mode. ASUS performs this step at least when it manufactures and
17 configures the ASUS brand computers and through operation and/or testing of the ASUS brand
18 computers.

19 37. Claim 1 of the '190 patent further recites "setting an operational speed of the fan
20 based on the appropriate one of the first and second power management policies." In the ASUS
21 brand computers, the operational speed of the fan is set based on, for example, the power schemes.
22 For example, when the Quiet Office Power Scheme is configured, the operational speed of the fan
23 is reduced to reduce fan noise. ASUS performs this step at least when it manufactures and
24 configures the ASUS brand computers and through operation and/or testing of the ASUS brand
25 computers.

26 38. Claim 1 of the '190 patent further recites "monitoring a temperature of the
27 processor." Each ASUS brand computer includes one or more temperature sensors (e.g.,
28 contained in the CPU) that function during operation of the computer. Each ASUS brand

1 computer continually monitors a temperature of the processor, e.g., to make sure the processor
2 does not overheat. ASUS performs this step at least when it manufactures and configures the
3 ASUS brand computers and through operation and/or testing of the ASUS brand computers.

4 39. Claim 1 of the '190 patent further recites "setting an operational speed of the
5 processor based on the appropriate one of the first and second power management policies and
6 based on the temperature of the processor." In the ASUS brand computers, the operational speed
7 of the processor is set based on, for example, the power schemes and the temperature of the
8 processor. For example, when ASUS configures the High Performance Scheme, the operational
9 speed of the processor is set to allow for high performance processing power. Furthermore, each
10 ASUS brand computer reduces the frequency at which the processor operates based on
11 temperature (e.g., when the processor temperature exceeds a certain threshold). ASUS performs
12 this step at least when it manufactures and configures the ASUS brand computers and through
13 operation and/or testing of the ASUS brand computers.

14 40. On information and belief, ASUS practices the steps of dependent claims 2-3, 5-6,
15 and 9-10 of the '190 patent by, for example, manufacturing, using, selling, offering for sale,
16 configuring, operating, and/or testing the ASUS brand computers. IpVenture incorporates by
17 reference the allegations regarding other claims of the '190 patent into the allegations for the
18 dependent claims.

19 41. Claim 2 of the '190 patent recites "A method as recited in claim 1, wherein the first
20 and second power management policies include at least one condition based on a temperature of
21 the processor." In the ASUS brand computers, first and second power management policies, such
22 as by way of example and without limitation power schemes such as High Performance, Quiet
23 Office, Battery Savings and/or Game, include at least one condition (e.g., operational speed of the
24 fan and/or operational speed of the frequency) based on a temperature of the processor. In the
25 ASUS brand computers, for example, a first power scheme (e.g., Quiet Office Power Scheme) and
26 a second power scheme (e.g., High Performance) includes a first condition (e.g., operational speed
27 of the fan) based on the temperature of the processor. For example, when the Quiet Office Power
28 Scheme is configured, the operational speed of the fan is reduced to reduce fan noise. By way of

1 another example, when the High Performance Power Scheme is configured, the operational speed
2 of the fan is increased to maintain coolness of the processor.

3 42. Claim 3 of the '190 patent recites "A method as recited in claim 1, wherein the first
4 power management policy pertains to operating the computer in a portable mode, and wherein the
5 second power management policy pertains to operating the computer in a desktop mode." For
6 example, in each ASUS brand computer, a first power management policy (e.g., Battery Savings)
7 pertains to operating the computer in a portable mode, and a second power management policy
8 (e.g., High Performance) pertains to operating the computer in a desktop mode.

9 43. Claim 5 of the '190 patent recites "A method as recited in claim 1, wherein each of
10 the first and second power management policies includes conditions concerning an operational
11 speed of the processor and an operational speed of the fan." On information and belief, in the
12 ASUS brand computers, first and second power management policies (e.g., Quiet Office Power
13 Scheme, High Performance, Battery Savings, etc.) include conditions based on the speed of the
14 processor (e.g., frequency of the processor based on temperature of the processor) and the speed of
15 the fan (e.g., fan speed based on the temperature of the processor).

16 44. Claim 6 of the '190 patent recites "A method as recited in claim 5, wherein the first
17 and second power management policies include at least one condition based on a temperature of
18 the processor." In the ASUS brand computers, first and second power management policies, such
19 as by way of example and without limitation High Performance, Quiet Office, Battery Savings
20 and/or Game, include at least one condition (e.g., operational speed of the fan and/or operational
21 speed of the frequency) based on a temperature of the processor.

22 45. Claim 9 of the '190 patent recites "A method as recited in claim 1, wherein the
23 computer is a portable computer." The ASUS brand computers are portable computers.

24 46. Claim 10 of the '190 patent recites "A method as recited in claim 1, wherein the
25 first power management policy includes at least a first condition based on a temperature of the
26 processor, and wherein the second power management policy includes at least a second condition
27 based on the temperature of the processor, the second condition being different than the first
28 condition." In the ASUS brand computers, a first power management policy (e.g., Quiet Office

1 Power Scheme) includes a condition (e.g., operational speed of the fan) based on the temperature
2 of the processor. For example, when the Quiet Office Power Scheme is configured, the
3 operational speed of the fan is reduced to reduce fan noise. In the ASUS brand computers, a
4 second power management policy (e.g., High Performance) includes a different condition (e.g.,
5 operational speed of the processor) based on the temperature of the processor. For example, when
6 the High Performance Scheme is configured, the operational speed of the processor is set based on
7 temperature.

8 47. Claim 18 of the '190 patent recites:

9 18. A method for controlling an operational speed for a processor of a computing
10 device, said method comprising:

11 configuring the computing device to utilize a first power management policy when
12 the computing device is powered by a battery;

13 configuring the computing device to utilize a second power management policy
14 when the computing device is not powered by a battery; and

15 controlling an operational speed of the processor based on the appropriate one of
16 the first and second power management policies that have been configured,

17 wherein the first power management policy includes at least a first condition based
18 on a temperature of the processor, and

19 wherein the second power management policy includes at least a second condition
20 based on the temperature of the processor, the second condition being different than the
21 first condition.

22 48. On information and belief, ASUS practices the steps of claim 18 by, for example,
23 manufacturing, using, selling, offering for sale, configuring, operating, and/or testing the ASUS
24 brand computers. The ASUS brand computers contain a processor (e.g., Intel CPU) and a fan for
25 cooling at least the processor, and contain a method for controlling an operational speed for a
26 processor of the computer through software and hardware components. ASUS manufactures the
27 ASUS brand computers, and include software and hardware specifically configured in accordance
28 with power management policies to manage the operation of the computer.

1 49. Claim 18 of the '190 patent recites "configuring the computing device to utilize a
2 first power management policy when the computing device is powered by a battery." ASUS brand
3 computers include software and/or hardware, including but not limited to the ASUS Power 4 Gear
4 utility, Microsoft Window's Power Options menu, ACPI, BIOS, and embedded controller. Each
5 ASUS brand computer is configured or configurable through, for example, the ASUS Power 4
6 Gear utility, Microsoft Window's Power Options menu, ACPI, or BIOS to operate in one of
7 several power schemes and setting (such as, by way of example and not limitation, High
8 Performance, Quiet Office, and Battery Saving) when the computer is in Battery Mode. ASUS
9 performs this step at least when it manufactures and configures the ASUS brand computers and
10 through operation and/or testing of the ASUS brand computers.

11 50. Claim 18 of the '190 patent further recites "configuring the computing device to
12 utilize a second power management policy when the computing device is not powered by a
13 battery." Each ASUS brand computer is configured or configurable through, for example, the
14 ASUS Power 4 Gear utility, Microsoft Window's Power Options menu, ACPI, or BIOS to operate
15 in one of several power schemes and setting (such as High Performance, Quiet Office, and Battery
16 Saving) when the computer is in AC Mode. ASUS performs this step at least when it
17 manufactures and configures the ASUS brand computers and through operation and/or testing of
18 the ASUS brand computers.

19 51. Claim 18 of the '190 patent further recites "controlling an operational speed of the
20 processor based on the appropriate one of the first and second power management policies that
21 have been configured." In the ASUS brand computers, the operational speed of the processor is
22 based on, for example, the configured power schemes. For example, when the High Performance
23 or Game Power Scheme is configured, the operational speed of the processor is set to allow for
24 high performance processing power. ASUS performs this step at least when it manufactures and
25 configures the ASUS brand computers and through operation and/or testing of the ASUS brand
26 computers.

27 52. Claim 18 of the '190 patent further recites "wherein the first power management
28 policy includes at least a first condition based on a temperature of the processor." In the ASUS

1 brand computers, the first power scheme (e.g., Quiet Office Power Scheme) includes a first
2 condition (e.g., operational speed of the fan) based on the temperature of the processor. For
3 example, when the Quiet Office Power Scheme is configured, the operational speed of the fan is
4 reduced to reduce fan noise.

5 53. Claim 18 of the '190 patent further recites "wherein the second power management
6 policy includes at least a second condition based on the temperature of the processor, the second
7 condition being different than the first condition." In the ASUS brand computers, the second
8 power scheme (e.g., High Performance) includes a second condition (e.g., operational speed of the
9 processor) based on the temperature of the processor. For example, when the High Performance
10 Scheme is configured, the operational speed of the processor is set based on temperature of the
11 processor.

12 54. On information and belief, ASUS practices the steps of dependent claims 19-22 and
13 25-26 of the '190 patent by, for example, manufacturing, using, selling, offering for sale,
14 configuring, operating, and/or testing the ASUS brand computers. IpVenture incorporates by
15 reference the allegations regarding other claims of the '190 patent into the allegations for the
16 dependent claims.

17 55. Claim 19 of the '190 patent recites "A method as recited in claim 18, wherein the
18 computing device is or includes a computer, wherein the first power management policy pertains
19 to operating the computer in a portable mode, and wherein the second power management policy
20 pertains to operating the computer in a desktop mode." Each ASUS brand computer configured,
21 operated, and/or tested by ASUS is a computer. For example, in each ASUS brand computer, the
22 first power management policy (e.g., Battery Savings) pertains to operating the computer in a
23 portable mode, and the second power management policy (e.g., High Performance) pertains to
24 operating the computer in a desktop mode.

25 56. Claim 20 of the '190 patent recites "A method as recited in claim 18, wherein each
26 of the first and second power management policies includes conditions concerning an operational
27 speed of the processor and an operational speed of the fan." In the ASUS brand computers, the
28 first power management policy (e.g., Quiet Office Power Scheme, Battery Saving, High

1 Performance, etc.) includes conditions (e.g., operational speed of the fan and operational speed of
2 the processor) based on the temperature of the processor, and the second power management
3 policy (e.g., High Performance, Battery Savings, etc.) includes conditions (e.g., operational speed
4 of the fan and operational speed of the processor) based on the temperature of the processor.

5 57. Claim 21 of the '190 patent recites "A method as recited in claim 18, wherein said
6 method comprises: monitoring a temperature of the processor, and wherein said controlling the
7 operational speed of the processor comprises setting the operational speed of the processor based
8 on the appropriate one of the first and second power management policies and based on the
9 temperature of the processor." Each ASUS brand computer that ASUS manufactures, uses, sells,
10 offers for sale, configures, operates, and/or tests includes one or more temperature sensors (e.g.,
11 contained in the CPU) and continually monitors a temperature of the processor, e.g., to make sure
12 the processor does not overheat. Each ASUS brand computer sets the operational speed of the
13 processor based on the appropriate one of the first and second power management policies (e.g.,
14 Battery Savings, High Performance, etc.) and based on the temperature of the processor (e.g.,
15 processor frequency is throttled based on temperature). ASUS performs this step at least when it
16 manufactures and configures the ASUS brand computers and through operation and/or testing of
17 the ASUS brand computers.

18 58. Claim 22 of the '190 patent recites "A method as recited in claim 18, wherein the
19 computing device further includes a fan for cooling at least the processor, and wherein said
20 method further comprises controlling an operational speed of the fan based on the appropriate one
21 of the first and second power management policies." Each ASUS brand computer that ASUS
22 manufactures, uses, sells, offers for sale, configures, operates, and/or tests includes a fan for
23 cooling at least the processor. Each ASUS brand computer controls an operational speed of the
24 fan based on the appropriate one of the first and second power management policies (e.g., Quiet
25 Office, High Performance, etc.). ASUS performs this step at least when it manufactures and
26 configures the ASUS brand computers and through operation and/or testing of the ASUS brand
27 computers.

28

1 59. Claim 25 of the '190 patent recites "A method as recited in claim 18, wherein the
2 computing device further includes a fan for cooling at least the processor, and wherein said
3 method comprises: monitoring a temperature of the processor; and controlling an operational
4 speed of the fan based on the appropriate one of the first and second power management policies
5 and based on the temperature of the processor." Each ASUS brand computer that ASUS
6 manufactures, uses, sells, offers for sale, configures, operates, and/or tests includes a fan for
7 cooling at least the processor, and one or more temperature sensors (e.g., contained in the CPU)
8 for continually monitoring a temperature of the processor, e.g., to make sure the processor does
9 not overheat. Each ASUS brand computer controls an operational speed of the fan based on the
10 appropriate one of the first and second power management policies (e.g., Quiet Office, High
11 Performance, etc.) and a temperature of the processor (e.g., fan speed increases as temperature of
12 the processor increases). ASUS performs this step at least when it manufactures and configures
13 the ASUS brand computers and through operation and/or testing of the ASUS brand computers.

14 60. Claim 26 of the '190 patent recites "A method as recited in claim 25, wherein said
15 controlling of the operational speed of the processor comprises: setting the operational speed of
16 the processor based on the appropriate one of the first and second power management policies and
17 based on the temperature of the processor." Each ASUS brand computer that ASUS
18 manufactures, uses, sells, offers for sale, configures, operates, and/or tests sets the operational
19 speed of the processor based on the appropriate one of the first and second power management
20 policies (e.g., Battery Savings, High Performance, etc.) and based on the temperature of the
21 processor (e.g., processor frequency is throttled based on temperature). ASUS performs this step
22 at least when it manufactures and configures the ASUS brand computers and through operation
23 and/or testing of the ASUS brand computers.

24 61. The claims identified and the allegations regarding the ASUS brand computers
25 herein are exemplary. IpVenture reserves the right to identify additional claims of the '190 patent
26 and details regarding the alleged infringement in contentions, disclosures and discovery provided
27 during these proceedings, including pursuant to the Court's Local Rules.
28

1 62. To the extent that facts learned in discovery show that ASUS had actual knowledge
2 of the '190 patent from the time the '190 patent issued in March 2009, IpVenture reserved the right
3 to amend the complaint to allege that ASUS actively induced infringement and/or contributed to
4 the infringement of the '190 patent and request such a finding at time of trial. Given that ASUS
5 indisputably had knowledge of IpVenture's allegations of infringement of the '190 patent no later
6 than November 28, 2011, IpVenture also reserves the right to amend its pleading, or to allege in a
7 separate or supplemental pleading, that ASUS actively induced infringement and/or contributed to
8 the infringement of the '190 patent and to seek such additional relief to which IpVenture may be
9 entitled.

10 63. To the extent that facts learned in discovery show that ASUS's infringement of the
11 '190 patent is or has been willful, IpVenture reserves the right to request such a finding at time of
12 trial.

13 64. ASUS's acts of infringement have caused damage to IpVenture, and IpVenture is
14 entitled to recover from ASUS the damages sustained as a result of ASUS's wrongful acts in an
15 amount yet to be determined and subject to proof at trial. Unless enjoined, ASUS's infringement
16 of IpVenture's rights under the '190 patent will to continue to damage IpVenture, causing
17 IpVenture irreparable injury as a direct and proximate result of ASUS's conduct.

18 **THIRD CLAIM FOR RELIEF FOR PATENT INFRINGEMENT**

19 **(Direct Infringement of U.S. Patent No. 6,487,668)**

20 65. IpVenture hereby incorporates the allegations of Paragraphs 1 through 18 as if fully
21 set forth herein.

22 66. The '668 patent includes 52 claims. By way of example, claim 12 of the '668 patent
23 recites:

24 12. A computer, comprising:

25 a processor that operates in accordance with a clock, the clock having a

26 clock frequency;

27 a temperature sensor that provides a temperature indication; and

28 a fan; and

1 a thermal manager operatively connected to said microprocessor and said
2 fan, said thermal manager being configured to receive the temperature indication
3 from said temperature sensor, and said thermal manager activates said fan when
4 the temperature indication indicates that primary thermal management is required,
5 and subsequently reduces the clock frequency of the clock for said processor
6 when the temperature indication indicates that supplemental thermal management
7 is required even after said fan has been activated.

8 67. IpVenture is informed and believes, and thereon alleges, that ASUS has infringed
9 and is currently infringing the '668 patent in violation of 35 U.S.C. § 271 by, among other things,
10 making, using, selling, offering to sell, and/or importing within this judicial district and elsewhere
11 in the United States, without authority or license from IpVenture, ASUS brand computers,
12 including notebook computers, that contain and/or utilize thermal management apparatus and/or
13 methods and meet the limitations of one or more claims of the '668 patent, including at least
14 apparatus claim 12 and method claims 24, 26-28, 31-34, and 49.

15 68. The infringing ASUS brand computers that contain and/or utilize thermal
16 management apparatus and/or methods and meet the limitations of one or more claims of the '668
17 patent, including at least claims 12, 24, 26-28, 31-34, and 49, include, but are not limited to, the
18 ASUS brand computers bearing the model or designation known as the N76 Series, N56 Series,
19 M51 Series, G55 Series, G75 Series, K55 Series, K53 Series, K73 Series, B23 Series, P55VA
20 Series, P45 Series, B43 Series, B53 Series, P43 Series, P53 Series, U47 Series, UL30 Series,
21 UX32 Series, S46 Series, S56 Series, U31 Series, U36 Series, UX21 Series, and UX31 Series of
22 computers.

23 69. ASUS directly infringes the '668 patent. The infringing computer products are
24 made, used, sold, or imported with components, hardware, and/or software, including an Intel
25 microprocessor that operates in accordance with a clock having a clock frequency, one or more
26 temperature sensors providing a temperature indication, one or more fans, software such as an
27 operating system (e.g., Microsoft Windows), firmware, software drivers, and embedded
28 controllers. The infringing computer products activate a fan when the temperature indicates that

1 primary thermal management is required and subsequently throttle the processor when the
2 temperature indication indicates that supplemental thermal management is required, for example,
3 to prevent the microprocessor from overheating. Technical details regarding the ASUS computers
4 further evidencing the structure and operation of ASUS computers are in the possession of ASUS
5 and are expected to be produced to IpVenture during this action and provide additional evidence
6 of ASUS's infringement.

7 70. Claim 24 of the '668 patent recites:

8 24. A method for providing thermal management for a computer, the computer
9 including at least a processor and a cooling fan, said method comprising:

10 monitoring temperature of the processor;

11 activating a cooling fan when the temperature of the processor indicates that
12 primary thermal management is requires; and

13 subsequently reducing operational clock frequency of the processor when the
14 temperature of the processor indicates that supplemental thermal management is required
15 even after the cooling fan has been activated.

16 71. On information and belief, ASUS practices the steps of claim 24 by, for example,
17 manufacturing, using, selling, offering for sale, configuring, operating, and/or testing the ASUS
18 brand computers. The ASUS brand computers contain a processor (e.g., Intel CPU) and a cooling
19 fan, and contain a method for providing thermal management of the computer through software
20 and hardware components. ASUS manufactures the ASUS brand computers, and include software
21 and hardware specifically configured in accordance with power management policies to manage
22 the operation of the computer.

23 72. Claim 24 of the '668 patent recites "monitoring temperature of the processor."
24 Each ASUS brand computer includes one or more temperature sensors (e.g., contained in the
25 CPU). Each ASUS brand computer continually monitors a temperature of the processor, e.g., to
26 make sure the processor does not overheat. ASUS performs this step at least when it manufactures
27 and configures the ASUS brand computers and through operation and/or testing of the ASUS
28 brand computers.

1 73. Claim 24 of the '668 patent further recites "activating a cooling fan when the
2 temperature of the processor indicates that primary thermal management is requires." Each ASUS
3 brand computer includes software and/or hardware, including but not limited to the ASUS Power
4 4 Gear utility, Microsoft Window's Power Options menu, ACPI, BIOS, and embedded controller,
5 configured by ASUS that activates the cooling fan based on temperature of the processor to
6 provide primary thermal management (e.g., sometimes referred to as active cooling). ASUS
7 performs this step at least when it manufactures and configures the ASUS brand computers and
8 through operation and/or testing of the ASUS brand computers.

9 74. Claim 24 of the '668 patent further recites "subsequently reducing operational clock
10 frequency of the processor when the temperature of the processor indicates that supplemental
11 thermal management is required even after the cooling fan has been activated." Each ASUS brand
12 computer includes software and/or hardware, including but not limited to the ASUS Power 4 Gear
13 utility, Microsoft Window's Power Options menu, ACPI, BIOS, and embedded controller,
14 configured by ASUS that throttles (or reduces) the operation frequency of the processor when the
15 temperature of the processor increases even after the cooling fan is activated, to provide
16 supplemental thermal management (e.g., sometimes referred to as passive cooling). ASUS
17 performs this step at least when it manufactures and configures the ASUS brand computers and
18 through operation and/or testing of the ASUS brand computers.

19 75. On information and belief, ASUS practices the steps of dependent claims 26-28 and
20 31-34 of the '668 patent by, for example, manufacturing, using, selling, offering for sale,
21 configuring, operating, and/or testing the ASUS brand computers. IpVenture incorporates by
22 reference the allegations regarding other claims of the '668 patent into the allegations for the
23 dependent claims.

24 76. Claim 26 of the '668 patent recites "A method as recited in claim 24, wherein when
25 the cooling fan is initially activated, the speed of the cooling fan is increased in a gradual manner
26 as additional primary thermal management is needed." On information and belief, the ASUS
27 brand computers increase the speed of the cooling fan in a gradual manner as the temperature of
28 the processor increases to provide additional primary thermal management. ASUS performs this

1 step at least when it manufactures and configures the ASUS brand computers and through
2 operation and/or testing of the ASUS brand computers.

3 77. Claim 27 of the '668 patent recites "A method as recited in claim 24, wherein said
4 activating of the cooling fan increases the speed of the cooling fan in a gradual manner to provide
5 different levels of the primary thermal management." On information and belief, The ASUS
6 brand computers increase the speed of the cooling fan in a gradual manner as the temperature of
7 the processor increases to provide different levels of primary thermal management. ASUS
8 performs this step at least when it manufactures and configures the ASUS brand computers and
9 through operation and/or testing of the ASUS brand computers.

10 78. Claim 28 of the '668 patent recites "A method as recited in claim 24, wherein said
11 reducing of the operational clock frequency reduces the operational clock frequency by an amount
12 dependent on the temperature of the processor." On information and belief, Each ASUS brand
13 computer throttles (or reduces) the operation frequency of the processor by an amount dependent
14 on the temperature of the processor (e.g., when the temperature of the processor hits a maximum
15 temperature). ASUS performs this step at least when it manufactures and configures the ASUS
16 brand computers and through operation and/or testing of the ASUS brand computers.

17 79. Claim 31 of the '668 patent recites "A method as recited in claim 24, wherein the
18 cooling fan is a variable-speed fan, and wherein said activating of the cooling fan causes the
19 cooling fan to operate at a speed that is dependent on the temperature of the processor." Each
20 ASUS brand computer that ASUS manufactures, uses, sells, offers for sale, configures, operates,
21 and/or tests includes a variable-speed fan that can operate at multiple speeds. Each ASUS brand
22 computer configures the operational speed of the cooling fan that is dependent on the temperature
23 of the processor. ASUS performs this step at least when it manufactures and configures the ASUS
24 brand computers and through operation and/or testing of the ASUS brand computers.

25 80. Claim 32 of the '668 patent recites "A method as recited in claim 31, wherein when
26 the cooling fan is initially activated, the speed of the cooling fan is relatively slow and the speed of
27 the cooling fan thereafter increases in a gradual manner when the temperature of the processor
28 increases." On information and belief, The ASUS brand computers set the operational speed of

1 the fan relatively slow and increase the speed of the cooling fan in a gradual manner as the
2 temperature of the processor increases. ASUS performs this step at least when it manufactures
3 and configures the ASUS brand computers and through operation and/or testing of the ASUS
4 brand computers.

5 81. Claim 33 of the '668 recites "A method as recited in claim 24, wherein the cooling
6 fan is a variable-speed fan, and wherein the primary thermal management operates the cooling fan
7 at successively greater speeds to provide a plurality of different levels of the primary thermal
8 management." Each ASUS brand computer that ASUS manufactures, uses, sells, offers for sale,
9 configures, operates, and/or tests includes a variable-speed fan that can operate at multiple speeds.

10 On information and belief, each ASUS brand computer configures the operational speed of the
11 cooling fan at successively greater speeds dependent on the temperature of the processor to
12 provide different levels of primary thermal management. ASUS performs this step at least when it
13 manufactures and configures the ASUS brand computers and through operation and/or testing of
14 the ASUS brand computers.

15 82. Claim 34 of the '668 patent recites "A method as recited in claim 33, wherein the
16 level of the primary thermal management being performed is dependent on the temperature of the
17 processor." On information and belief, each ASUS brand computer configures the operational
18 speed of the cooling fan at successively greater speeds dependent on the temperature of the
19 processor to provide different levels of primary thermal management.

20 83. Claim 49 of the '668 patent recites:

21 49. A method for providing thermal management for a computer, the computer
22 including at least a processor and a cooling fan, said method comprising:

23 monitoring temperature of the processor;

24 comparing the temperature of the processor with at least a first temperature
25 threshold and a second predetermined temperature, the second predetermined temperature
26 corresponding to a greater temperature than the first predetermined temperature;

27 activating a cooling fan when the temperature of the processor exceeds the first
28 predetermined temperature; and

1 reducing operational clock frequency of the processor when the temperature of the
2 processor exceeds the second predetermined temperature, wherein the cooling fan provides
3 primary thermal management and reduction in the operational clock frequency of the
4 processor provides secondary thermal management.

5 84. On information and belief, ASUS practices the steps of claim 49 by, for example,
6 manufacturing, using, selling, offering for sale, configuring, operating, and/or testing the ASUS
7 brand computers. The ASUS brand computers contain a processor (e.g., Intel CPU) and a cooling
8 fan, and contain a method for providing thermal management of the computer through software
9 and hardware components. ASUS manufactures the ASUS brand computers, and include software
10 and hardware specifically configured in accordance with power management policies to manage
11 the operation of the computer.

12 85. Claim 49 recites "monitoring temperature of the processor." Each ASUS brand
13 computer includes one or more temperature sensors (e.g., contained in the CPU). Each ASUS
14 brand computer continually monitors a temperature of the processor, e.g., to make sure the
15 processor does not overheat. ASUS performs this step at least when it manufactures and
16 configures the ASUS brand computers and through operation and/or testing of the ASUS brand
17 computers.

18 86. Claim 49 recites "comparing the temperature of the processor with at least a first
19 temperature threshold and a second predetermined temperature, the second predetermined
20 temperature corresponding to a greater temperature than the first predetermined temperature."
21 Each ASUS brand computer includes software and/or hardware, including but not limited to the
22 ASUS Power 4 Gear utility, Microsoft Window's Power Options menu, ACPI, BIOS, and/or
23 embedded controller, that continually compares the temperature of the processor with multiple,
24 different predetermined temperatures (e.g., at least first temperature threshold and a second
25 predetermined temperature that is greater). ASUS performs this step at least when it manufactures
26 and configures the ASUS brand computers and through operation and/or testing of the ASUS
27 brand computers.

28

1 87. Claim 49 further recites "activating a cooling fan when the temperature of the
2 processor exceeds the first predetermined temperature." Each ASUS brand computer includes
3 software and/or hardware, including but not limited to the ASUS Power 4 Gear utility, Microsoft
4 Window's Power Options menu, ACPI, BIOS, and embedded controller, that activates the cooling
5 fan when the temperature of the processor exceeds the first predetermined temperature, to provide
6 primary thermal management (e.g., sometimes referred to as active cooling). ASUS performs this
7 step at least when it manufactures and configures the ASUS brand computers and through
8 operation and/or testing of the ASUS brand computers.

9 88. Claim 49 further recites "reducing operational clock frequency of the processor
10 when the temperature of the processor exceeds the second predetermined temperature, wherein the
11 cooling fan provides primary thermal management and reduction in the operational clock
12 frequency of the processor provides secondary thermal management." Each ASUS brand
13 computer includes software and/or hardware, including but not limited to the ASUS Power 4 Gear
14 utility, Microsoft Window's Power Options menu, ACPI, BIOS, and embedded controller, that
15 throttles (or reduces the operational clock frequency) of the processor when the temperature of the
16 processor exceeds the second predetermined temperature, to provide supplemental thermal
17 management (e.g., sometimes referred to as active cooling). ASUS performs this step at least
18 when it manufactures and configures the ASUS brand computers and through operation and/or
19 testing of the ASUS brand computers.

20 89. The claims identified and the allegations regarding the ASUS brand computers
21 herein are exemplary. IpVenture reserves the right to identify additional claims of the '668 patent
22 and details regarding the alleged infringement in contentions, disclosures and discovery provided
23 during these proceedings, including pursuant to the Court's Local Rules.

24 90. To the extent that facts learned in discovery show that ASUS had actual knowledge
25 of the '668 patent before November 28, 2011, IpVenture reserved the right to amend the complaint
26 to allege that ASUS actively induced infringement and/or contributed to the infringement of the
27 '668 patent and request such a finding at time of trial. Given that ASUS indisputably had
28 knowledge of IpVenture's allegations of infringement of the '668 patent no later than November

1 28, 2011, IpVenture also reserves the right to amend its pleading, or to allege in a separate or
2 supplemental pleading, that ASUS actively induced infringement and/or contributed to the
3 infringement of the '668 patent and to seek such additional relief to which IpVenture may be
4 entitled.

5 91. To the extent that facts learned in discovery show that ASUS's infringement of the
6 '668 patent is or has been willful, IpVenture reserves the right to request such a finding at time of
7 trial.

8 92. ASUS's acts of infringement have caused damage to IpVenture, and IpVenture is
9 entitled to recover from ASUS the damages sustained as a result of ASUS's wrongful acts in an
10 amount yet to be determined and subject to proof at trial. Unless enjoined, ASUS's infringement
11 of IpVenture's rights under the '668 patent will to continue to damage IpVenture, causing
12 IpVenture irreparable injury as a direct and proximate result of ASUS's conduct.

13 **FOURTH CLAIM FOR RELIEF FOR PATENT INFRINGEMENT**

14 **(Direct Infringement of U.S. Patent No. 7,167,993)**

15 93. IpVenture hereby incorporates the allegations of Paragraphs 1 through 18 as if fully
16 set forth herein.

17 94. The '993 patent includes 29 claims. By way of example, claim 20 of the '993 patent
18 recites:

19 20. A computer, comprising:

20 a processor that operates in accordance with a clock that is in the
21 processor and that directly sets the operation speed of the processor;

22 a temperature sensor that provides a temperature indication of said
23 processor;

24 a multiple speed fan; and

25 a thermal manager operatively connected to said processor and said fan,
26 said thermal manager being configured to receive the temperature indication, and
27 said thermal manager causes said fan speed and the clock to change in view of the
28 one or more temperature indications,

1 wherein said thermal manager causes said fan speed to change from a slow
2 speed to a fast speed before causing a reduction in the clock rate of said clock for
3 said processor in view of the temperature indication.

4 95. IpVenture is informed and believes, and thereon alleges, that ASUS has infringed
5 and is currently infringing the '993 patent in violation of 35 U.S.C. § 271 by, among other things,
6 making, using, selling, offering to sell, and/or importing within this judicial district and elsewhere
7 in the United States, without authority or license from IpVenture, ASUS brand computers,
8 including notebook computers, that contain and/or utilize thermal management apparatus and/or
9 methods and meet the limitations of one or more claims of the '993 patent, including at least claim
10 20.

11 96. The infringing ASUS brand computers that contain and/or utilize thermal
12 management apparatus and/or methods and meet the limitations of one or more claims of the '993
13 patent, including at least claim 20, include, but are not limited to, the ASUS brand computers
14 bearing the model or designation known as the N76 Series, N56 Series, M51 Series, G55 Series,
15 G75 Series, K55 Series, K53 Series, K73 Series, B23 Series, P55VA Series, P45 Series, B43
16 Series, B53 Series, P43 Series, P53 Series, U47 Series, UL30 Series, UX32 Series, S46 Series,
17 S56 Series, U31 Series, U36 Series, UX21 Series, and UX31 Series of computers.

18 97. ASUS directly infringes the '993 patent. The infringing computer products are
19 made, used, sold, or imported with components, hardware, and/or software, including an Intel
20 microprocessor that operates in accordance with a clock, one or more temperature sensors
21 providing a temperature indication of the microprocessor, one or more multiple speed fans,
22 software such as an operating system (e.g., Microsoft Windows), firmware, software drivers, and
23 embedded controllers. The infringing computer products cause the fan speed and the clock to
24 change in view of the one or more temperature indications and cause the fan speed to change from
25 a slow speed to a fast speed before throttling the microprocessor in view of the temperature
26 indication, for example, to prevent the microprocessor from overheating. Technical details
27 regarding the ASUS computers further evidencing the structure and operation of ASUS computers
28

1 are in the possession of ASUS and are expected to be produced to IpVenture during this action and
2 provide additional evidence of ASUS's infringement.

3 98. The claims identified and the allegations regarding the ASUS brand computers
4 herein are exemplary. IpVenture reserves the right to identify additional claims of the '993 patent
5 and details regarding the alleged infringement in contentions, disclosures and discovery provided
6 during these proceedings, including pursuant to the Court's Local Rules.

7 99. To the extent that facts learned in discovery show that ASUS had actual knowledge
8 of the '993 patent before November 28, 2011, IpVenture reserved the right to amend the complaint
9 to allege that ASUS actively induced infringement and/or contributed to the infringement of the
10 '993 patent and request such a finding at time of trial. Given that ASUS indisputably had
11 knowledge of IpVenture's allegations of infringement of the '993 patent no later than November
12 28, 2011, IpVenture also reserves the right to amend its pleading, or to allege in a separate or
13 supplemental pleading, that ASUS actively induced infringement and/or contributed to the
14 infringement of the '993 patent and to seek such additional relief to which IpVenture may be
15 entitled.

16 100. To the extent that facts learned in discovery show that ASUS's infringement of the
17 '993 patent is or has been willful, IpVenture reserves the right to request such a finding at time of
18 trial.

19 101. ASUS's acts of infringement have caused damage to IpVenture, and IpVenture is
20 entitled to recover from ASUS the damages sustained as a result of ASUS's wrongful acts in an
21 amount yet to be determined and subject to proof at trial. Unless enjoined, ASUS's infringement
22 of IpVenture's rights under the '993 patent will to continue to damage IpVenture, causing
23 IpVenture irreparable injury as a direct and proximate result of ASUS's conduct.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, IpVenture prays for relief against Defendants and that the Court enter a
26 judgment in favor of IpVenture providing as follows:

- 27 A. That Defendants have infringed one or more claims of the '599, '190, '668, and '993
28 patents under 35 U.S.C. § 271;

- 1 B. That Defendants and their affiliates, subsidiaries, directors, officers, employees,
2 attorneys, agents and all persons in active convert or participation with any of the
3 foregoing be preliminarily and permanently enjoined from further acts of
4 infringement, inducing infringement, or contributory infringement of the '599, '190,
5 '668, and '993 patents;
- 6 C. That Defendants be required to pay IpVenture damages adequate to compensate
7 IpVenture for Defendants' infringement of the '599, '190, '668, and '993 patents, but
8 in no event less than a reasonable royalty for the use made of the invention,
9 together with interest and costs under 35 U.S.C. § 284;
- 10 D. That Defendants be ordered to provide an accounting;
- 11 E. That Defendants be ordered to pay supplemental damages to IpVenture, including
12 without limitation interest;
- 13 F. That this be adjudged an exceptional case and that IpVenture be awarded its
14 attorneys' fees pursuant to 35 U.S.C. § 285;
- 15 G. That Defendants be required to pay pre- and post-judgment interest on the damages
16 assessed; and
- 17 H. That IpVenture be awarded such other and further relief as this Court deems just
18 and proper.

19 **DEMAND FOR JURY TRIAL**

20 IpVenture hereby demands a trial by jury on all issues so triable.

21 Dated: May 20, 2013

By: /s/ Richard Birnholz

Richard M. Birnholz

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