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FILED

JUN 8 2006

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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IS

11 Attorneys for Plaintiffs
SEVEN NETWORKS, INC. and
12 SEVEN NETWORKS INTERNATIONAL OY

E-Filing

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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16
17 SEVEN NETWORKS, INC., a Delaware
corporation, and SEVEN NETWORKS
18 INTERNATIONAL OY,

19 Plaintiffs,

20 vs.

21 VISTO CORPORATION, a Delaware
corporation,

22 Defendant.
23

C 06 3650 RS

) Case No.

) **COMPLAINT FOR DECLARATORY**
) **JUDGMENT**

24
25 Plaintiffs Seven Networks, Inc. and Seven Networks International OY (collectively, "Seven"),
26 for their complaint against Defendant Visto Corporation ("Visto"), allege and aver:
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PARTIES

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1. Seven Networks, Inc. is a Delaware corporation having its principal place of business at 901 Marshall Street, Redwood City, California 94063.

2. Seven Networks International OY is a Finnish corporation having its principal place of business in Helsinki, Finland.

3. Visto is a Delaware corporation having its principal place of business at 275 Shoreline Drive, Suite 300, Redwood Shores, California 94065.

JURISDICTION AND VENUE

4. This is an action for the resolution of an existing conflict under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. The underlying causes of action arise under the patent laws of the United States. A case or controversy exists between Plaintiffs and Visto. The amount in controversy between the parties exceeds \$75,000. This Court therefore has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332, and 1338(a).

5. On information and belief, this Court has personal jurisdiction over Visto because Visto is found in this District.

6. Venue for this action is proper in this District under 38 U.S.C. §§ 1391(b) and 1400(b) because Visto resides in this District and because a substantial part of the events giving rise to this claim occurred in this District.

7. In August 2005, Seven Networks, Inc. filed suit against Visto in the Eastern District of Texas in the case captioned *Seven Networks, Inc. v. Visto Corporation*, Civil Action No. 2:05-CV-365-TJW, alleging infringement by Visto of a patent owned by Seven Networks. Visto has indicated its intention to try and amend its Answer in that case to assert the patents that are the subject of this Complaint. Because the patents that are the subject of this complaint are not asserted in that action, do not share a common nucleus of operative fact with the allegations of that case and Seven Networks' own case against Visto is so advanced, Seven Networks does not believe that the cases are related (e.g., no products of Seven have been accused of infringing any patents owned by Visto in the *Seven Networks v. Visto* case).

1 13. Seven therefore seeks a declaration by this Court that Seven's products and services do
2 not infringe the '606 and '679 Visto patents and that the '606 and '679 Visto patents are invalid.

3 **COUNT I**

4 **Declaratory Judgment of Noninfringement of the '606 Patent**

5 14. Seven repeats and realleges paragraphs 1 through 13 of this Complaint as if the same
6 were full set forth herein.

7 15. Seven's products do not infringe any valid claim of the '606 patent, either directly,
8 indirectly, contributorily, or otherwise. Seven has not induced others to infringe the '606 patent.

9 16. Seven is therefore entitled to a declaratory judgment that it does not infringe the '606
10 patent.

11 **COUNT II**

12 **Declaratory Judgment of Invalidity of the '606 Patent**

13 17. Seven repeats and realleges paragraphs 1 through 14 of this Complaint as if the same
14 were full set forth herein.

15 18. The claims of the '606 patent are invalid for failure to meet the requirements specified
16 in Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and
17 112.

18 19. Seven is therefore entitled to a declaratory judgment that the '606 patent is invalid.

19 **COUNT III**

20 **Declaratory Judgment of Noninfringement of the '679 Patent**

21 20. Seven repeats and realleges paragraphs 1 through 17 of this Complaint as if the same
22 were full set forth herein.

23 21. Seven's products do not infringe any valid claim of the '679 patent, either directly,
24 indirectly, contributorily or otherwise. Seven has not induced others to infringe the '679 patent.

25 22. Seven is therefore entitled to a declaratory judgment that it does not infringe the '679
26 patent.

COUNT IV

Declaratory Judgment of Invalidity of the '679 Patent

23. Seven repeats and realleges paragraphs 1 through 22 of this Complaint as if the same were full set forth herein.

24. The claims of the '679 patent are invalid for failure to meet the requirements specified in Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and 112.

25. Seven is therefore entitled to a declaratory judgment that the '679 patent is invalid.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Seven Networks, Inc. and Seven Networks International OY pray that the Court enter judgment that:

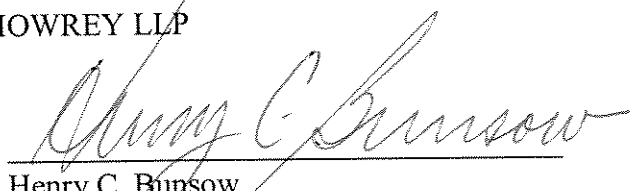
- a) U.S. Patent No. 6,151,606 is not infringed by Seven's products;
- b) The claims of U.S. Patent No. 6,151,606 are invalid;
- c) U.S. Patent No. 7,039,679 is not infringed by Seven's products; and
- d) The claims of U.S. Patent No. 7,039,679 are invalid.

Dated: June 8, 2006

Respectfully submitted,

HOWREY LLP

By:



Henry C. Bunsow
K.T. Cherian
James C. Pistorino
James F. Valentine

Attorneys for Plaintiffs SEVEN
NETWORKS, INC. and SEVEN
NETWORKS INTERNATIONAL OY