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NOV 08 2002

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Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

5 Attorneys for Plaintiffs,
6 CREATIVE LABS, INC. and
CREATIVE TECHNOLOGY LTD.
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 CREATIVE LABS, INC. and
12 CREATIVE TECHNOLOGY LTD.,

Case No. 02 05369 BZ

13 Plaintiffs,

COMPLAINT FOR DECLARATORY
JUDGMENT OF PATENT NON-
INFRINGEMENT AND INVALIDITY

ADR

14 v.

15 AUDIO MPEG, INC.

DEMAND FOR JURY TRIAL

16 Defendant.

17
18 Plaintiffs, Creative Labs, Inc. and Creative Technology Ltd. ("Creative"), by their
19 attorneys, allege for their Complaint against Defendant Audio MPEG, Inc. ("Audio MPEG")
20 seeking a judgment declaring that the claims of United States Patent Nos. 5,214,678; 5,323,396;
21 and 5,777,992 ("the Patents-in-Suit") are not infringed and/or are invalid and state as follows:

22 PARTIES

23 1. Plaintiff Creative Technology Ltd. is a corporation organized under the laws of
24 Singapore with a principal place of business at 31 International Business Park, Republic of
25 Singapore. Plaintiff Creative Labs, Inc. is a corporation organized under the laws of the State of
26 California and has a principal place of business at 1901 McCarthy Blvd., Milpitas, California
27 95035.
28

COMPLAINT FOR DECLARATORY JUDGMENT
OF PATENT NON-INFRINGEMENT AND
INVALIDITY AND DEMAND FOR JURY TRIAL

MCDERMOTT, WILL & EMERY
ATTORNEYS AT LAW
SILICON VALLEY

1 fully and completely set forth herein.

2 11. Creative does not infringe and has not infringed, either directly or indirectly, any
3 valid or enforceable claim of the Patents-in-Suit.

4 12. Accordingly, Creative is entitled to a declaratory judgment that it does not and has
5 not infringed the Patents-in-Suit.

6 **COUNT II**

7 **DECLARATORY JUDGMENT OF INVALIDITY OF THE PATENTS-IN-SUIT**

8 13. Creative incorporates by reference paragraphs 1-12 of this Complaint as though
9 fully and completely set forth herein.

10 14. The claims of the Patents-in-Suit, are invalid for failure to meet the patentability
11 requirements of one or more of 35 U.S.C. §§ 102, 103 and/or 112.

12 15. Accordingly, Creative is entitled to a declaration that the claims of the patents in
13 suit are invalid.

14 **WHEREFORE**, Creative prays for the following relief:

15 (A) That the Court enter a judgment declaring that the claims of the Patents-in-Suit are
16 invalid;

17 (B) That the Court enter a judgment declaring that Creative has not infringed, directly
18 or indirectly, the Patents-in-Suit;

19 (C) That the Court enter judgment enjoining Audio MPEG, its officers, agents,
20 servants, employees, attorneys and those persons in active concert with any of them, from
21 threatening to institute or instituting any action for infringement against Creative based on the
22 Patents-in-Suit, or against any of Creative's customers for same;

23 (D) That the Court find that this is an exceptional case and award Creative its attorney
24 fees, costs and expenses incurred in this action; and

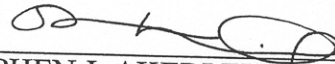
25 (E) That the Court grant Creative such other and further relief as this Court may deem
26 just and proper.

MCDERMOTT, WILL & EMERY
ATTORNEYS AT LAW
SILICON VALLEY

1 Dated: November 8, 2002

2 McDERMOTT, WILL & EMERY

3
4 By:



5 STEPHEN J. AKERLEY
6 Attorneys for Creative Labs, Inc. and
7 Creative Technology Ltd.

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COMPLAINT FOR DECLARATORY JUDGMENT
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JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Federal Procedure, Creative hereby demands a trial by jury on all issues properly triable to a jury in this action.

Dated: November 8, 2002

McDERMOTT, WILL & EMERY

By: 
STEPHEN J. AKERLEY
Attorneys for Creative Labs, Inc. and
Creative Technology Ltd.

MPK 55598-1.T06280.0011

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