

Delaware corporation with its principle place of business at 1 Infinite Loop, Cupertino, CA 95014.

4. Upon information and belief, defendant ASUS Computer International, Inc. (“ASUS”) is a California corporation with its principal place of business at 44370 Nobel Drive, Fremont, CA 94538.

5. Upon information and belief, defendant Dell Inc. (“Dell”) is a Delaware corporation with its principal place of business at One Dell Way, Round Rock, Texas 78682.

6. Upon information and belief, defendant Gateway, Inc. (“Gateway”) is a Delaware corporation with its principal place of business at 7565 Irvine Center Drive, Irvine, CA 92618.

7. Upon information and belief, defendant Sony Electronics Inc. (“Sony”) is a Delaware corporation with its principal place of business at 1645 W. Bernardo St., San Diego, CA 92127.

8. Upon information and belief, defendant CyberLink.com Corporation (“CyberLink”) is a California corporation with its principal North American place of business at 46750 Fremont Blvd, Suite 200, Fremont, CA 94538.

9. Upon information and belief, defendant Nero, Inc. (“Nero”), formerly known as Ahead Software Inc., is a Delaware corporation with its principal place of business at 330 N. Brand Blvd, Suite 800, Glendale, CA 91203.

10. Upon information and belief, defendant Nero AG, formerly known as Ahead Software AG, is a corporation of Germany with its principal place of business at Im Stoeckmaedle 13-15, 76307 Karlsbad, Germany. Upon information and belief, Nero AG, directly or indirectly through its wholly owned subsidiaries, imports into the United States and distributes and sells and/or offers to sell throughout the United States, including in the State of

Texas and in particular in the Eastern District of Texas, electronic equipment and software programs.

11. Upon information and belief, defendant Sonic Solutions (“Sonic”) is a California corporation with its principal place of business at 101 Rowland Way, Novato, CA 94945.

12. Upon information and belief, defendant Sony Corporation (“Sony Japan”) is a corporation of Japan with its principal place of business at Osaki East Technology Center Gate City Osaki 1-11-1 Osaki, Shinagawa-ku, Tokyo, 141-0032, Japan, and a registered office at 7-35 Kitashinagawa 6-chome, Shinagawa-ku, Tokyo, 141-0001, Japan. Upon information and belief, Sony Japan, directly or indirectly through its wholly owned subsidiaries, imports into the United States and distributes and sells and/or offers to sell throughout the United States, including in the State of Texas and in particular in the Eastern District of Texas, electronic equipment, software and hardware programs. Said electronic equipment and products include, but are not limited to, Sony PlayStation[®] 3, various models of Sony’s VAIO[®] computers, Sony Handycam[®] Camcorders, MyDVD[®], PowerDVD[®]; and Movie Maker[®].

13. Upon information and belief, defendant Sony Computer Entertainment (“SCE Japan”) is a corporation of Japan with its principal place of business at 2-6-21, Minami-Aoyama, Minato-ku, Tokyo, 107-0062, Japan. Upon information and belief, SCE Japan manufactures and imports in the United States electronic equipment, software and hardware programs. Said electronic equipment and products include, but are not limited to, Sony PlayStation[®] 3. SCE Japan imports the Sony PlayStation[®] 3 for the purposes of distribution and sales throughout the United States by and through its wholly owned subsidiary, Sony Computer Entertainment America, Inc.

14. Upon information and belief, defendant Sony Computer Entertainment America,

Inc. (“SCE America”) is a Delaware corporation with its headquarters at 919 East Hillsdale Boulevard, 2nd Floor, Foster City, California 94404. Upon information and belief, SCE America is a wholly owned subsidiary of SCE Japan and is the marketing and sales apparatus of SCE Japan in the United States. Upon information and belief, SCE America markets, distributes and sells the Sony PlayStation[®] 3 throughout the United States, including the State of Texas and in particular in the Eastern District of Texas.

JURISDICTION AND VENUE

15. This action arises under the patent laws of the United States, Title 35, United States Code §§1 *et seq.* The jurisdiction of this Court over the subject matter of this action is proper under 28 U.S.C. §§1331 and 1338(a).

16. The personal jurisdiction of this Court over defendant Acer in this case is proper because, on information and belief, Acer, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing computer products which infringe MedioStream’s patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

17. The personal jurisdiction of this Court over defendant Apple in this case is proper because, on information and belief, Apple, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing computer products which infringe MedioStream’s patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

18. The personal jurisdiction of this Court over defendant ASUS in this case is proper

because, on information and belief, ASUS, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing computer products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

19. The personal jurisdiction of this Court over defendant Dell in this case is proper because, on information and belief, Dell, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing computer products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

20. The personal jurisdiction of this Court over defendant Gateway in this case is proper because, on information and belief, Gateway, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing computer products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

21. The personal jurisdiction of this Court over defendant Sony in this case is proper because, on information and belief, Sony, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing computer products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

22. The personal jurisdiction of this Court over defendant CyberLink in this case is proper because, on information and belief, CyberLink, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing software products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

23. The personal jurisdiction of this Court over defendant Nero in this case is proper because, on information and belief, Nero, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing software products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

24. The personal jurisdiction of this Court over defendant Nero AG in this case is proper because, on information and belief, Nero AG, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing software products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

25. The personal jurisdiction of this Court over defendant Sonic in this case is proper because, on information and belief, Sonic, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing software products which infringe MedioStream's patents into the stream of commerce, which

stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

26. The personal jurisdiction of this Court over defendant Sony Japan in this case is proper because, on information and belief, Sony Japan, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing software products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

27. The personal jurisdiction of this Court over defendant SCE Japan in this case is proper because, on information and belief, SCE Japan, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing software products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

28. The personal jurisdiction of this Court over defendant SCE America in this case is proper because, on information and belief, SCE America, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing software and hardware products which infringe MedioStream's patents into the stream of commerce, which stream is directed at the State of Texas, including this district, with the knowledge and/or understanding that such products would be sold in the State of Texas, including this district.

29. This Court has subject matter jurisdiction over state law causes of action under 28

U.S.C. § 1332(a)(2).

30. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

BACKGROUND FACTS

31. Between 1999 and 2002 MedioStream introduced products that created substantial excitement in the computer industry, especially among companies interested in multimedia computer applications including streaming video from the Internet and recoded video on disk media such as CDs and DVDs. MedioStream's early products received substantial media attention, followed by some of the worlds leading computer hardware and software companies contacting MedioStream regarding its technology and the capabilities of its products.

32. In an effort to attract customers and investors, MedioStream displayed its proprietary and confidential technology including its product plans and business plans to a select number of companies, but only after entering into non-disclosure agreements whereby the companies agreed to not disclose or use MedioStream's confidential information for their own benefit. The success of MedioStream's products and business plans depended on MedioStream's proprietary, confidential, and trade secret information that it developed.

33. The companies that visited MedioStream and reviewed its technology, business plans and other confidential proprietary information included some of the top personal computer hardware and software firms in the country, including many of the Defendants named herein. One company that extensively evaluated MedioStream's technology early on was Apple Computers, where founder and CEO Steven Jobs personally met with the senior executives of MedioStream. Gateway also visited MedioStream shortly after MedioStream released several highly publicized products, and Gateway signed a non-disclosure agreement whereby Gateway agreed to not disclose or use MedioStream's proprietary information. Defendants CyberLink

and Nero also signed non-disclosure documents and had access to MedioStream's confidential and proprietary information.

34. Upon information and belief, Defendants have knowingly used MedioStream's technology obtained from MedioStream and its former employees to improve existing products and create new products.

35. On March 7, 2006, United States Patent No. 7,009,655 (the "'655 patent") was duly and legally issued to MedioStream, Inc., with Qiang Huang named as inventor, for an invention entitled "Method and System For Direct Recording of Video Information Onto A Disk Medium." By assignment, MedioStream is the owner of all rights, title, and interests in the '655 patent. A copy of the '655 patent is attached to this complaint as Exhibit A.

36. On October 16, 2007, United States Patent No. 7,283,172 (the "'172 patent") was duly and legally issued to MedioStream, Inc., with Qiang Huang named as inventor, for an invention entitled "Method and System For Direct Recording of Video Information Onto A Disk Medium." By assignment, MedioStream is the owner of all rights, title and interests in the '172 patent. A copy of the '172 patent is attached to this complaint as Exhibit B.

COUNT 1
Patent Infringement Against All Defendants
(US Patent No. 7,009,655)

37. Upon information and belief, Defendants have infringed and continue to infringe the '655 patent by engaging in commercial activities related to the manufacture, development, sale, offers to sell and importation into the United States, including this district, a variety of electronic products and software applications covered by the '655 patent, and is contributing to and inducing others to manufacture, use, sell, import, and/or offer for sale products covered by

the '655 patent. Defendants are liable for its infringement of the '655 patent pursuant to 35 U.S.C. § 271.

38. MedioStream has been damaged by the infringement or inducement of and/or contributory infringement of its patents by Defendants and will continue to be damaged by such infringement or inducement of and/or contributory infringement unless enjoined by this Court.

39. Upon information and belief, Defendants had knowledge of their infringement of the '655 patent, yet Defendants continue to infringe. Defendants willfully and deliberately infringed the '655 patent – entitling MedioStream to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT 2
Patent Infringement Against All Defendants
(US Patent No.7,283,172)

40. Upon information and belief, Defendants have infringed and continue to infringe the '172 patent by engaging in commercial activities related to the manufacture, development, sale, offers to sell and importation into the United States, including this district, a variety of electronic products and software applications covered by the '172 patent, and is contributing to and inducing others to manufacture, use, sell, import, and/or offer for sale products covered by the '172 patent. Defendants are liable for its infringement of the '172 patent pursuant to 35 U.S.C. § 271.

41. MedioStream has been damaged by the infringement or inducement of and/or contributory infringement of its patents by Defendants and will continue to be damaged by such infringement or inducement of and/or contributory infringement unless enjoined by this Court.

42. Upon information and belief, Defendants had knowledge of their infringement of the '172 patent, yet Defendants continue to infringe. Defendants willfully and deliberately

infringed the '172 patent –entitling MedioStream to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

43. Pursuant to Fed. R. Civ. P. 38(b), Plaintiff MedioStream hereby demands a trial by jury on all issues triable of right by a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff MedioStream, Inc. requests entry of judgment in its favor and against Defendants as follows:

a) A temporary and permanent injunction against Defendants and their respective officers, agents, employees, and those acting in privity with them, from further infringement, contributory infringement and/or inducing infringement of U.S. Patent No. 7,009,655;

b) Awarding the damages arising out of Defendants' infringement or inducement of and/or contributory infringement of U.S. Patent No. 7,009,655 to MedioStream, including enhanced damages pursuant to 35 U.S.C. § 284, together with prejudgment and post-judgment interest, in an amount according to proof;

c) A temporary and permanent injunction against Defendants and their respective officers, agents, employees, and those acting in privity with them, from further infringement, contributory infringement, and/or inducing infringement of U.S. Patent No. 7,283,172;

d) Awarding the damages arising out of Defendants' infringement or inducement and/or contributory infringement of U.S. Patent No. 7,283,172 to MedioStream, including enhanced damages, pursuant to 35 U.S.C. § 284, together with pre-judgment and post-judgment interest, in an amount according to proof;

e) Declaration that this is an exceptional case and MedioStream be awarded its costs

and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285 or as otherwise permitted by law;

f) Such other and further relief as the Court deems just and proper.

Dated: January 9, 2009

Respectfully submitted,

By: /s/ Byron Cooper

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CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 9th day of January, 2009, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Byron Cooper
Byron Cooper