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

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SEER SYSTEMS, INC., a California Corporation

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

7736 BL

SEER SYSTEMS, INC., a California Corporation,

Plaintiff,

VS.

YAMAHA CORPORATION, a Japanese Corporation,

Defendants.

COMPLAINT FOR INFRINGEMENT OF U.S. PATENT NO. 5,886,274

DEMAND FOR JURY TRIAL

Plaintiff SEER SYSTEMS, INC. (hereinafter "SEER") hereby complains of Defendant YAMAHA CORPORATION (hereinafter "YAMAHA"), and alleges as follows:

JURISDICTION AND VENUE

- 1. This action for patent infringement arises under the patent laws of the United States, Title 35, United States Code, more particularly 35 U.S.C. §§ 271 and 281.
 - 2. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
 - 3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

THE PARTIES

4. Plaintiff SEER SYSTEMS is a corporation duly incorporated and existing under the laws of the State of California, with its principal place of business in San Mateo County – at 4420 Alpine Road, PMB #133, Portola Valley, California.

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	5.	Plaintiff SEER SYSTEMS is the assignee of United States Patent No. 5,886,274
entitled	d "Syste	em and method for generating, distributing, and performing musical work files"
("the ''	274 pate	ent"), filed on July 11, 1997, and duly and lawfully issued on March 23, 1999.

- Plaintiff is informed and believes, and on that basis alleges, that Defendant 6. YAMAHA CORPORATION is a Japanese Corporation with its principal place of business in Japan but with on-going and continuous business in the United States of America at all material times alleged herein.
- 7. Plaintiff is informed and believes, and on that basis alleges, that Defendant YAMAHA does business in this judicial district and has committed and is continuing to commit acts of infringement in this judicial district.

CLAIM FOR RELIEF

- 8. Plaintiff hereby incorporates by reference paragraphs 1-7 as if restated herein.
- 9. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281.
- Plaintiff is informed and believes, and on that basis alleges, that YAMAHA has 10. been and is infringing the '274 patent under § 271 (a). In addition, on information and belief, Plaintiff alleges that YAMAHA is making and using other systems and/or is in the process of developing other systems, which infringe the '274 patent under § 271(a) including but not limited to the so-called "Synchronous Contents Authoring System" and "Synthetic music Mobile Application Format" system (the "SMAF system"). Plaintiff is further informed and believes, and on that basis alleges, that YAMAHA's infringement of the '274 patent under § 271(a) will continue unless enjoined by this Court.
- 11. Plaintiff is informed and believes, and on that basis alleges, that YAMAHA has been and is knowingly and intentionally inducing others to infringe directly the '274 patent under § 271 (a), thereby inducing infringement of the '274 patent under § 271(b). Plaintiff is further informed and believes that YAMAHA has promoted and marketed use of the SMAF system. Plaintiff is further informed and believes, and on that basis allege, that YAMAHA's infringement of the '274 patent under § 271(b) will continue unless enjoined by this Court.
 - 12. Plaintiff is informed and believes, and on that basis alleges, that YAMAHA has

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been and is contributorily infringing the '274 patent under § 271(c) by providing software, product and services especially made or especially adapted for infringing use and not staple articles or commodities of commerce suitable for substantial noninfringing use, including at least certain sound chips, such as the MA-7, that YAMAHA has distributed to various cellular phone and personal digital assistant manufacturers. Plaintiff is further informed and believes, and on that basis alleges, that YAMAHA's infringement of the '274 patent under § 271(c) will continue unless enjoined by this Court.

Plaintiff is informed and believes, and on that basis alleges, that YAMAHA 13. derived and received, and will continue to derive and receive from the aforesaid acts of infringement gains, profits, and advantages, tangible and intangible, the extent of which are not presently known to Plaintiff. By reason of the aforesaid acts of infringement, Plaintiff has been, and will continue to be, irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff SEER SYSTEMS, INC. prays for relief as follows:

- That YAMAHA be adjudged to have infringed the '274 patent under 35 U.S.C. § A. 271(a);
- B. That YAMAHA be adjudged to have infringed the '274 patent under 35 U.S.C. § 271(b) by inducing others to infringe directly the '274 patent under 35 U.S.C. § 271(a);
- C. That YAMAHA be adjudged to have contributorily infringed the '274 patent under 35 U.S.C. § 271(c);
- D. That YAMAHA, its officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them be preliminarily and permanently restrained and enjoined under 35 U.S.C. § 283 from directly or indirectly infringing the '274 patent;
- E. That this Court award damages to compensate SEER for YAMAHA's infringement pursuant to 35 U.S.C. § 284;
- F. That this Court assess pre-judgment and post-judgment interest and costs against Defendants, and award such interest and costs to SEER pursuant to 35 U.S.C. § 284; and
 - G. That SEER have such other and further relief as the Court may deem proper.

Dated: December 18, 2006 PETERSON, WEYAND & MARTIN,	LLP
By Alexander M. Weyard Attorney for Plaintiff SEER SYSTEMS, INC.	_

DEMAND FOR JURY TRIAL

Plaintiff SEER SYSTEMS, INC. hereby demands a trial by jury as to all issues triable by jury, specifically including, but not limited to, the issue of the infringement of United States Patent No. 5,886,274.

Dated: December **16**, 2006

PETERSON, WEYAND & MARTIN, LLP

Alexander M Weyand Attorney for Plaintiff SEER SYSTEMS, INC.