

Uniform Heat Points" issued on April 4, 2006; and co-owner of U.S. Patent No. 7,245,494, entitled "Thermal Structure for Electric Devices" issued on July 17, 2007.

2. Golden Sun News Techniques Co., Ltd. ("Golden Sun"), is a company whose mailing address is No. 60, Wu-Chiuan 5th Rd., Wu-Ku Industrial District, Taipei Hsien, 248, Taiwan, R.O.C. Golden Sun is the owner of U.S. Patent No. 7,093,648, entitled "Heat Pipe Cooling Device and Method for Manufacturing the Same" issued on August 22, 2006, and the co-owner of U.S. Patent No. 7,245,494, entitled "Thermal Structure for Electric Devices" issued on July 17, 2007.

3. Upon information and belief, Acer America Corporation ("Acer America") is a California corporation, with its principal place of business at 333 West San Carlos Street, Suite 1500, San Jose, CA 95110, and is doing business in this judicial district and elsewhere. Acer America may be served with process by serving its registered agent, CT Corporation System, 818 West Seventh Street, Los Angeles, CA 90017.

4. Upon information and belief, Acer Inc. is a Taiwan corporation, whose mailing address is 8F, 88, Sec.1, Hsin Tai Wu Rd., Hsichih, Taipei, Hsien 221, Taiwan, R.O.C., and is doing business in this judicial district and elsewhere through its subsidiary, Acer America.

5. Upon information and belief, Wistron Corporation ("Wistron") is a company whose mailing address is 21F, 88, Sec. 1, Hsin Tai Wu Road, Hsichih, Taipei Hsien 221, Taiwan, R.O.C. On information and belief, Wistron is the Design, Manufacturing and Services arm of Acer Inc. for Acer brand name computers and components and is doing business in this judicial district and elsewhere through its service operations.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, Title 35 United States Code, particularly §§ 271 and 281, and under state laws regarding the misappropriation of trade secrets, unfair competition, conversion, and unjust enrichment.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, and 1367, as the claims in Counts I-IV (patent infringement) arise under the patent laws of the United States, and the claims in Counts V-VIII (misappropriation of trade secrets, unfair competition, conversion, and unjust enrichment) form part of the same case or controversy as the claims in Counts I-IV.

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332, as the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and the action is between citizens of a state and citizens of a foreign state.

9. This Court has jurisdiction over Plaintiff's claims of unfair competition pursuant to 28 U.S.C. § 1338(b), as those claims are joined with substantial and related claims under the Patent and Trademark Laws of the United States.

10. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b).

FACTUAL BACKGROUND
The Patents-at-Suit

11. On August 24, 2004, U.S. Patent No. 6,779,595, entitled "Integrated Heat Dissipation Apparatus" ("the '595 patent") was duly and legally issued. A copy of the '595 patent is attached as Exhibit A and is made a part hereof. CpuMate is the owner of the '595 patent and at all relevant times has had the right to enforce the '595 patent.

12. On July 17, 2007, U.S. Patent No. 7,245,494, entitled "Thermal Structure for Electric Devices" ("the '494 patent") was duly and legally issued. A copy of the '494 patent is

attached as Exhibit B and is made a part hereof. CpuMate and Golden Sun are co-owners of the '494 patent and at all relevant times have had the right to enforce the '494 patent.

13. On April 4, 2006, U.S. Patent No. 7,021,368, entitled "Heat Dissipating Device with Uniform Heat Points" ("the '368 patent") was duly and legally issued. A copy of the '368 patent is attached as Exhibit C and is made a part hereof. CpuMate is the owner of the '368 patent and at all relevant times has had the right to enforce the '368 patent.

14. On August 22, 2006, U.S. Patent No. 7,093,648, entitled "Heat Pipe Cooling Device and Method for Manufacturing the Same" ("the '648 patent") was duly and legally issued. A copy of the '648 patent is attached as Exhibit D and is made a part hereof. Golden Sun is the owner of the '648 patent and at all relevant times has had the right to enforce the '648 patent.

15. The '368 patent, the '494 patent, the '648 patent and the '595 patent ("the asserted patents"), in general, relate to heat dissipation devices used in electronic products, such as computers, to dissipate heat generated by the products. More specifically, the claims of the asserted patents relate to such heat dissipation devices that are particularly well-suited as cooling devices for central processing units ("CPU coolers") in computers.

16. Upon information and belief, Defendants incorporate infringing heat dissipation devices within Acer computers, including but not limited to the following product model numbers: Altos G540, Veriton L460, Veriton L410, Aspire T620, Aspire X3600 and Aspire L3600. By selling such heat dissipation devices as part of Defendants' desktop computers, Defendants have infringed and continue to infringe directly, by inducement, or by contributing to the infringement of the claims of the asserted patents, including but not limited to claim 1 of each of the asserted patents.

17. Upon information and belief, heat dissipating devices in Defendants' desktop model numbers Veriton L460, Veriton L410, Aspire X3600 and Aspire L3600 are substantially similar to figure 2 of the '595 patent in all material respects and literally infringe claim 1 of the '595 patent. Such exacting duplication can only be made possible by an examination of the '595 patent. Therefore, Defendants had knowledge of the '595 patent for at least as early as the development and design of desktop model numbers Veriton L460, Veriton L410, Aspire X3600 and Aspire L3600. The activities of Defendants, described above, including the infringement of the '595 patent, are therefore willful and deliberate.

18. Upon information and belief, the heat dissipating device in Defendants' server model number Altos G540 is virtually identical to figure 1 of the '494 patent in all material respects and literally infringes claim 1 of the '494 patent. Such exacting duplication can only be made possible by an examination of the '494 patent. Therefore, Defendants had knowledge of the '494 patent for at least as early as the development and design of the server model number Altos G540. The activities of Defendants, described above, including the infringement of the '494 patent, are therefore willful and deliberate.

19. Upon information and belief, the heat dissipating device in Defendants' desktop model number Aspire T620 is substantially similar to figure 2 of the '368 patent in all material respects and literally infringes claim 1 of the '368 patent. Such exacting duplication can only be made possible by an examination of the '368 patent. Therefore, Defendants had knowledge of the '368 patent for at least as early as the design and development of the desktop model number Aspire T620. The activities of Defendants, described above, including the infringement of the '368 patent, are therefore willful and deliberate.

20. Upon information and belief, the heat dissipating device in Defendants' server model number Altos G540 is virtually identical to figure 6 of the '648 patent in all material respects and literally infringes claim 1 of the '648 patent. Such exacting duplication can only be made possible by an examination of the '648 patent. Therefore, Defendants had knowledge of the '648 patent for at least as early as the development and design of the server model number Altos G540. The activities of Defendants, described above, including the infringement of the '648 patent, are therefore willful and deliberate.

Defendants' Receipt of Confidential Information
From CpuMate

21. For many years electronic products, including for example computers, would overheat destroying components, such as the central processing unit ("CPU"), in the process. Scientists at CpuMate and Golden Sun solved this problem by inventing the heat dissipation devices used in electronic products cooling units, which are the subject of the asserted patents.

22. Acer Inc., aware of CpuMate's superior technology, contacted CpuMate in March 2003 and engaged in discussions with CpuMate for the supply and design of certain CPU coolers to be employed in computers Wistron was to manufacture for and supply to Acer Inc.

23. CpuMate used all reasonable measures to protect its proprietary information during these discussions, and to that end CpuMate entered into confidentiality agreements with both Acer Inc. and Wistron prior to disclosing any of its proprietary information relating to CPU coolers to Defendants.

24. Believing itself protected by these confidentiality agreements, CpuMate then disclosed to Defendants certain proprietary designs for CPU coolers which were tailored for use in Acer brand computers.

25. Defendants, however, did not abide by the terms of the confidentiality agreement. On information and belief, after receiving the confidential information from CpuMate, Defendants provided this information to a third party to manufacture the resultant CPU coolers.

26. Wistron then incorporated the resultant third party CPU coolers utilizing CpuMate's proprietary information into Acer brand name computers, and delivered these computers to Acer Inc.

COUNT 1
PATENT INFRINGEMENT

27. The allegations of paragraphs 1-26 are incorporated as though fully set forth herein.

28. Through the importation, sale, offer to sell, manufacture and/or use of at least the Aspire T620 computer in this judicial district and elsewhere in the United States, Defendants have directly infringed the '368 patent under 35 U.S.C. § 271(a).

29. Through the importation, sale, offer to sell, manufacture and/or use of at least the Aspire T620 computer, Defendants have actively induced others to infringe the '368 patent in this judicial district and elsewhere in the United States under 35 U.S.C. § 271(b).

30. Upon information and belief, Defendants are deliberately and willfully infringing the '368 patent with full knowledge of the '368 patent, rendering this case exceptional under 35 U.S.C. § 285.

31. CpuMate has suffered monetary damages as a result of the infringing actions of Defendants with respect to the '368 patent.

32. CpuMate has suffered and continues to suffer irreparable harm as a result of the infringing actions of Defendants with respect to the '368 patent for which CpuMate has no adequate remedy at law.

33. Upon information and belief, Defendants will continue to infringe the '368 patent directly and indirectly unless enjoined by this Court.

COUNT II
PATENT INFRINGEMENT

34. The allegations of paragraphs 1-33 are incorporated as though fully set forth herein.

35. Through the importation, sale, offer to sell, manufacture and/or use of at least the Altos G540 computer in this judicial district and elsewhere in the United States, Defendants have directly infringed the '494 patent under 35 U.S.C. § 271(a).

36. Through the importation, sale, offer to sell, manufacture and/or use of at least the Altos G540 computer, Defendants have actively induced others to infringe the '494 patent in this judicial district and elsewhere in the United States under 35 U.S.C. § 271(b).

37. Upon information and belief, Defendants are deliberately and willfully infringing the '494 patent with full knowledge of the '494 patent, rendering this case exceptional under 35 U.S.C. § 285.

38. Plaintiffs have suffered monetary damages as a result of the infringing actions of Defendants with respect to the '494 patent.

39. Plaintiffs have suffered and continue to suffer irreparable harm as a result of the infringing actions of Defendants with respect to the '494 patent for which Plaintiffs have no adequate remedy at law.

40. Upon information and belief, Defendants will continue to infringe the '494 patent directly and indirectly unless enjoined by this Court.

COUNT III
PATENT INFRINGEMENT

41. The allegations of paragraphs 1-40 are incorporated as though fully set forth herein.

42. Through the importation, sale, offer to sell, manufacture and/or use of at least the Veriton L460, Veriton L410, Aspire X3600 and Aspire L3600 computers in this judicial district and elsewhere in the United States, Defendants have directly infringed the '595 patent under 35 U.S.C. § 271(a).

43. Through the importation, sale, offer to sell, manufacture and/or use of at least the Veriton L460, Veriton L410, Aspire X3600 and Aspire L3600 computers, Defendants have actively induced others to infringe the '595 patent in this judicial district and elsewhere in the United States under 35 U.S.C. § 271(b).

44. Upon information and belief, Defendants are deliberately and willfully infringing the '595 patent with full knowledge of the '595 patent, rendering this case exceptional under 35 U.S.C. § 285.

45. CpuMate has suffered monetary damages as a result of the infringing actions of Defendants with respect to the '595 patent.

46. CpuMate has suffered and continues to suffer irreparable harm as a result of the infringing actions of Defendants with respect to the '595 patent for which CpuMate has no adequate remedy at law.

47. Upon information and belief, Defendants will continue to infringe the '595 patent directly and indirectly unless enjoined by this Court.

COUNT IV
PATENT INFRINGEMENT

48. The allegations of paragraphs 1-47 are incorporated as though fully set forth herein.

49. Through the importation, sale, offer to sell, manufacture and/or use of at least the Altos G540 computer in this judicial district and elsewhere in the United States, Defendants have directly infringed the '648 patent under 35 U.S.C. § 271(a).

50. Through the importation, sale, offer to sell, manufacture and/or use of at least the Altos G540 computer, Defendants have actively induced others to infringe the '648 patent in this judicial district and elsewhere in the United States under 35 U.S.C. § 271(b).

51. Upon information and belief, Defendants are deliberately and willfully infringing the '648 patent with full knowledge of the '648 patent, rendering this case exceptional under 35 U.S.C. § 285.

52. Golden Sun has suffered monetary damages as a result of the infringing actions of Defendants with respect to the '648 patent.

53. Golden Sun has suffered and continues to suffer irreparable harm as a result of the infringing actions of Defendants with respect to the '648 patent for which Golden Sun has no adequate remedy at law.

COUNT V
MISAPPROPRIATION OF TRADE SECRETS

54. The allegations of paragraphs 1-53 are incorporated as though fully set forth herein.

55. As explained above, CpuMate disclosed highly confidential and proprietary trade secrets to Defendants, during discussions and negotiations beginning in April 2003, concerning the development and manufacturing of certain CPU coolers. CpuMate had spent significant

time, effort and money in developing those trade secrets. They were valuable to CpuMate's business and they conferred a competitive advantage in the market for CPU coolers.

56. CpuMate maintained its trade secrets in confidence prior to Defendants' acts of misappropriation and at all relevant times. CpuMate required Defendants to execute the written confidentiality agreements prior to disclosing trade secrets to Defendants. Defendants were bound by those agreements not to disclose CpuMate's trade secrets or use them for any purpose not expressly agreed to by CpuMate. CpuMate had taken all necessary and reasonable measures to preserve the confidentiality of its trade secrets.

57. As explained above, Defendants misappropriated CpuMate's trade secrets by, among other things, disclosing the trade secrets to an unauthorized third party who then used those secrets in the development of CPU coolers for Defendants' computers.

58. As a result of Defendants' misappropriation of CpuMate's trade secrets, CpuMate has been damaged in an amount in excess of this Court's jurisdictional requirement and according to proof at trial. Defendants misappropriated CpuMate's trade secrets with malice, fraud and oppression and in willful and reckless disregard of CpuMate's rights, warranting an award of punitive damages in an amount to be determined at trial.

COUNT VI
UNFAIR COMPETITION

59. The allegations of paragraphs 1-58 are incorporated as though fully set forth herein.

60. As agreed to and understood by CpuMate and Defendants, and as reflected in the confidentiality agreements, CpuMate and Defendants had a confidential relationship of trust whereby Defendants agreed to preserve the confidentiality of confidential information disclosed to them by CpuMate.

61. As explained above, CpuMate disclosed confidential information and trade secrets to Defendants during discussions and negotiations beginning in April 2003, concerning the development and manufacturing of certain CPU coolers. CpuMate had spent significant time, effort and money in developing that confidential information and those trade secrets. They were valuable to CpuMate's business and they conferred a competitive advantage in the market for CPU coolers.

62. CpuMate maintained its confidential information and trade secrets in confidence prior to Defendants' acts of misappropriation and at all relevant times. CpuMate required both Defendants to execute written confidentiality agreements prior to disclosing confidential information and trade secrets to Defendants. Defendants were bound by those agreements not to disclose CpuMate's confidential information and trade secrets or use them for any purpose not expressly agreed to by CpuMate. CpuMate had taken all necessary and reasonable measures to preserve the confidentiality of its confidential information and trade secrets.

63. Defendants abused the parties' confidential relationship of trust by misappropriating CpuMate's trade secrets and breaching the confidentiality agreement by, among other things, disclosing the confidential information to a third party to finally manufacture the CPU coolers used in Acer brand name computers. Defendants' unauthorized use of the confidential information constituted unfair competition.

64. As a result of Defendants' unfair competition, CpuMate has been damaged in an amount in excess of this Court's jurisdictional requirement and according to proof at trial. Defendants engaged in unfair competition with malice, in willful and reckless disregard of CpuMate's rights, warranting an award of punitive damages in an amount to be determined at trial.

COUNT VII
CONVERSION

65. The allegations of paragraphs 1-64 are incorporated as though fully set forth herein.

66. As explained above, CpuMate disclosed confidential information and trade secrets to Defendants during discussions and negotiations beginning in April 2003, concerning the development and manufacturing of certain CPU coolers for use in Acer brand computers.

67. CpuMate maintained its confidential information and trade secrets in confidence prior to Defendants' acts of misappropriation and at all relevant times. CpuMate required Defendants to execute written confidentiality agreements prior to disclosing confidential information and trade secrets to Defendants. Defendants were bound by those agreements not to disclose CpuMate's confidential information and trade secrets or use them for any purpose not expressly agreed to by CpuMate. CpuMate had taken all necessary and reasonable measures to preserve the confidentiality of its confidential information and trade secrets.

68. Defendants wrongfully converted CpuMate's confidential information and trade secrets to Defendants' use by using the information and secrets for Defendants' benefit, by among other things, outsourcing the information and secrets to an unauthorized third party to develop CPU coolers for Acer brand computers. At no time did CpuMate consent or agree to such use of its confidential information and trade secrets by Defendants.

69. Defendants wrongfully converted CpuMate's confidential information and trade secrets to its own use.

70. As a result of Defendants' conversion, CpuMate has been damaged in an amount in excess of this Court's jurisdictional requirement and according to proof at trial. CpuMate is entitled to interest from the date of such conversion, in an amount to be determined. Defendants

converted CpuMate's confidential information and trade secrets with malice, fraud and oppression and in willful and reckless disregard of CpuMate's rights, warranting an award of punitive damages in an amount to be determined at trial.

COUNT VIII
UNJUST ENRICHMENT

71. The allegations of paragraphs 1-70 are incorporated as though fully set forth herein.

72. As set forth above, Defendants misappropriated confidential information and trade secrets of CpuMate in violation of, among other things, the confidentiality agreements, by disclosing and using the information and secrets for Defendants' benefit. On information and belief, Defendants have been enriched at CpuMate's expense by their misappropriation and use of CpuMate's confidential information and trade secrets.

73. Any enrichment that Defendants have received from their use of CpuMate's confidential information and trade secrets was a result of their misappropriation of such information and secrets. Accordingly, any such enrichment is unjust and should, in equity and good conscience, be returned to CpuMate.

74. As a result of Defendants' misappropriation and use of CpuMate's confidential information and trade secrets, Defendants have been unjustly enriched at the expense of CpuMate in an amount in excess of this Court's jurisdictional requirement and according to proof at trial.

DEMAND FOR JURY TRIAL

75. Plaintiffs demand a jury trial on all issues triable of right by a jury.

PRAYER FOR RELIEF

WHEREFORE, CpuMate prays for entry of judgment:

A. that at least claim 1 of U.S. Patent No. 6,779,595 has been infringed by Defendants and by others whose infringement has been contributed to and/or induced by Defendants;

B. that at least claim 1 of U.S. Patent No. 7,245,494 has been infringed by Defendants and by others whose infringement has been contributed to and/or induced by Defendants;

C. that at least claim 1 of U.S. Patent No. 7,021,368 has been infringed by Defendants and by others whose infringement has been contributed to and/or induced by Defendants;

D. that at least claim 1 of U.S. Patent No. 7,093,648 has been infringed by Defendants and by others whose infringement has been contributed to and/or induced by Defendants;

E. that Defendants and each of their officers, agents, employees, representatives, successors, assigns and those acting in privity or in concert with them be preliminarily and permanently enjoined from further infringement of U.S. Patent No. 6,779,595;

F. that Defendants and each of their officers, agents, employees, representatives, successors, assigns and those acting in privity or in concert with them be preliminarily and permanently enjoined from further infringement of U.S. Patent No. 7,245,494;

G. that Defendants and each of their officers, agents, employees, representatives, successors, assigns and those acting in privity or in concert with them be preliminarily and permanently enjoined from further infringement of U.S. Patent No. 7,021,368;

H. that Defendants and each of their officers, agents, employees, representatives, successors, assigns and those acting in privity or in concert with them be preliminarily and permanently enjoined from further infringement of U.S. Patent No. 7,093,648;

I. that Defendants account for and pay to CpuMate all damages and costs caused by Defendants' infringement of U.S. Patent No. 6,779,595;

J. that Defendants account for and pay to Plaintiffs all damages and costs caused by Defendants' infringement of U.S. Patent No. 7,245,494;

K. that Defendants account for and pay to CpuMate all damages and costs caused by Defendants' infringement of U.S. Patent No. 7,021,368;

L. that Defendants account for and pay to Golden Sun all damages and costs caused by Defendants' infringement of U.S. Patent No. 7,093,648;

M. an award to CpuMate of compensatory and punitive damages for Defendants' joint misappropriation of trade secrets, unfair competition, fraud and conversion;

N. an award to CpuMate of interest from the date of Defendants' joint conversion according to proof at trial;

O. an injunction against Wistron that enjoins its manufacture, supply or services related to Acer brand products that infringe the asserted patents;

P. an order that Defendants return to CpuMate all unjust enrichment they have received and/or will receive at CpuMate's expense;

Q. that Plaintiffs be granted pre-judgment and post-judgment interest on the damages caused by reason of Defendants' activities complained of herein;

R. that in view of the exceptional nature of the case and the willful nature of the infringement, a trebling of damages under 35 U.S.C. § 284;

- S. that Plaintiffs be granted its attorneys' fees under 35 U.S.C. § 285 in this action;
- T. that costs be awarded to Plaintiffs; and
- U. that Plaintiffs be granted such other and further relief that is just and proper under the circumstances.

DATED: May 16, 2008

s/Gerard P. Norton

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CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

I, Gerard P. Norton, certify under penalty of perjury that the matter in controversy is not the subject of any other actions pending in this and other courts.

s/Gerard P. Norton