

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MEDIOSTREAM, INC.,

Plaintiff,

v.

ACER INC.,
ASUSTeK COMPUTER INC.,
DELL INC., and
MICROSOFT CORPORATION,

Defendants.

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Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff MEDIOSTREAM, INC. (“MedioStream”) for its Complaint against Defendants ACER INC., ASUSTeK COMPUTER INC., DELL INC., and MICROSOFT CORPORATION, (collectively “Defendants”), alleges:

THE PARTIES

1. Plaintiff MedioStream, Inc. (“MedioStream”) is a California corporation that maintains its principal place of business at 4962 El Camino Real, Suite 201, Los Altos, CA 94022.

2. Upon information and belief, defendant Acer Inc. (“Acer”) is a Taiwan, R.O.C. corporation with its principal place of business at Hsin Tai Wu Rd., HsiChin, Taipei Hsien 221, Taiwan R.O.C.

3. Upon information and belief, defendant ASUSTeK Computer, Inc., (“ASUSTeK”) is a Taiwan, R.O.C. corporation with its principal place of business at No. 15, Li-Te Rd., Peitou District, Taipei 112, Taiwan R.O.C.

4. 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.

5. Upon information and belief, defendant Microsoft Corporation (“Microsoft”) is a Washington corporation with its principal place of business at One Microsoft Way, Redmond, WA 98052-6399.

JURISDICTION AND VENUE

6. 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).

7. 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 that infringe MedioStream’s patent 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.

8. The personal jurisdiction of this Court over defendant ASUSTeK in this case is proper because, on information and belief, ASUSTeK, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing computer products that infringe MedioStream’s patent 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.

9. 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 that infringe MedioStream's patent 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.

10. The personal jurisdiction of this Court over defendant Microsoft in this case is proper because, on information and belief, Microsoft, through various commercial arrangements has engaged in continuous and systematic activities within the State of Texas by *inter alia*, placing software products that infringe MedioStream's patent 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.

11. This Court has subject matter jurisdiction over state law causes of action under 28 U.S.C. § 1332(a)(2).

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

BACKGROUND FACTS

13. On November 30, 2010, United States Patent No. 7,843,508 (the "'508 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 '508 patent.

COUNT 1

Patent Infringement Against All Defendants **(US Patent No. 7,843,508)**

14. Upon information and belief, Defendants have infringed and continue to infringe the '508 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 '508 patent, and are contributing to and inducing others to manufacture, use, sell, import, and/or offer for sale products covered by the '508 patent. Defendants are liable for infringement of the '508 patent pursuant to 35 U.S.C. § 271.

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

16. Upon information and belief, Defendants had knowledge of their infringement of the '508 patent, yet Defendants continue to infringe. Defendants willfully and deliberately infringed the '508 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

17. 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. 7,843,508;

b) Awarding the damages arising out of Defendants' infringement or inducement of and/or contributory infringement of U.S. Patent No. 7,843,508 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) 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;

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

Dated: November 30, 2010

Respectfully submitted,

By: /s/ S. Calvin Capshaw

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