

Software Co. Updates Suit With Trade Secret Claims

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Monday, Nov 12, 2007 --- DVD software maker MedioStream Inc. filed a vastly expanded complaint against a slew of technology giants on Friday, contending that the firms infringed on its patents and two companies had misappropriated its trade secrets and stolen its employees as well.

MedioStream first filed the suit in the U.S. District Court for the Eastern District of Texas in April, alleging that Acer America Corp., Apple Computer Inc., Dell Inc. and Gateway Inc. infringed its patent titled "Method and system for direct recording of video information onto a disk medium."

The company amended its complaint in early September to include Asus Computer International Inc. but left most of the complaint unchanged.

MedioStream's third iteration of the complaint added more defendants and a new patent. It has also tacked on misappropriation of trade secrets, conversion, unjust enrichment and unfair competition claims against two of the companies.

The company said that between 1999 and 2002, it introduced products that had "created substantial excitement in the computer industry, especially among companies interested in multimedia computer applications." These included streaming video from the Internet and recoded video on disk media such as CDs or DVDs.

As a way to attract customers and investors, MedioStream displayed its secret technology to a select number of companies — but only after entering into non-disclosure agreements with those companies.

After the announcement of several MedioStream products, digital media company Sonic Solutions contacted MedioStream to seek assistance regarding several digital video applications.

Sonic Solutions had been suffering at that point due to falling sales of audio workstations and expensive and bugged attempts at developing products for digital video applications, MedioStream alleged.

The two signed both a non-disclosure agreement and a product-bundling agreement whereby Sonic licensed portions of MedioStream's technology in order to include it in one of Sonic's products.

At around the same time, Sony was producing CD and DVD disk drives and

evaluating software to use with them. Sony contacted MedioStream about its product and the two companies entered into discussions, leading to another set of non-disclosure and product bundling agreements in which MedioStream's software was bundled with Sony's drives.

Despite the agreements, both Sonic and Sony then “intentionally and knowingly used MedioStream's confidential information regarding MedioStream's employee's identity, knowledge, experience, capabilities and association with various technologies and product plans to target and hire away MedioStream's employees,” the company alleged.

Sony sought further confidential information regarding MedioStream's products, technology and business plans from a key employee it had hired away from the company, MedioStream said.

Sonic and Sony then established product relationships with several other companies in the computer and hardware business, including some of the defendants named in the complaint.

“As a result of [Sonic and Sony's] improper use of MedioStream's confidential, proprietary and trade secret information, Sony has benefited financially to MedioStream's detriment,” the company said.

It also accused Sonic and Sony of misusing MedioStream's trade secrets to unfairly compete in the marketplace for digital video software and systems, thus engaging in unlawful, unfair and fraudulent business practices under the California Business and Professions Code.

Besides the new trade secret claims, MedioStream has also added Cyberlink Inc. and Nero Inc. as defendants and a second patent, titled “Method and system for direct recording of video information onto a disk medium,” to the complaint.

The patents in the complaint are U.S. Patent No. 7,009,655 and 7,283,172.

MedioStream is represented by Brown McCarroll LLP, Parker Bunt & Ainsworth PC, Goodwin Procter LLP and Jones & Jones Inc.

Acer is represented by Kickpatrick & Lockhart Preston Gates Ellis LLP and Love & Goolsby LLP. Apple is represented by Milbank Tween Hadly & McCloy LLP. Gateway is represented by Dechert LLP.

The case is *Mediostream, Inc. v. Acer America Corporation et al*, case no. 2:07cv00376 in the U.S. District Court for the Eastern District of Texas.