

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

PREMIER INTERNATIONAL
ASSOCIATES LLC,
an Illinois Limited Liability Company,

Plaintiff,

v.

HEWLETT-PACKARD CO.,
a Delaware Corporation,

ACER INC.,
a Taiwan Corporation,

ACER AMERICA CORP.,
a California Corporation,

GATEWAY INC.,
a Delaware Corporation,

YAHOO! INC.,
a Delaware Corporation,

AMAZON.COM, INC.,
a Delaware Corporation, and

AMAZON DIGITAL SERVICES, INC.,
a Delaware Corporation,

Defendants.

Civil No. 2:07-cv-00395

TRIAL BY JURY DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, PREMIER INTERNATIONAL ASSOCIATES LLC, by its attorneys, hereby complains against Defendants HEWLETT-PACKARD CO., ACER INC., ACER AMERICA CORP., GATEWAY INC., YAHOO! INC., AMAZON.COM, INC., and AMAZON DIGITAL SERVICES, INC., collectively, “Defendants,” as follows:

I.

INTRODUCTION

1. In 1997, at a time when digital music delivery and management systems were largely in their infancy, PREMIER, filed a patent application disclosing new ways of organizing, managing, and delivering digital music. Two years later, the “digital music revolution” began with the release of the first version of the peer-to-peer file sharing service, the original Napster. Subsequently, many of PREMIER’s inventions were incorporated into consumer products.

2. Defendants have profited enormously from the digital music revolution, a revolution that fundamentally changed the way people are acquiring, managing and enjoying digital music.

3. United States Patent Nos. 6,243,725 and 6,763,345, both assigned to PREMIER, generally disclose an integrated multi-tier music management system that claim inventions that are fundamental to the success of the digital music revolution.

II.

PARTIES

4. Plaintiff PREMIER INTERNATIONAL ASSOCIATES LLC (“PREMIER”) is an Illinois Limited Liability Company qualified to do business in the State of Texas.

5. On information and belief, Defendant HEWLETT-PACKARD CO. (“HP”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 3000 Hanover Street, Palo Alto, CA 94304.

6. On information and belief, Defendant ACER INC. is a corporation organized and existing under the laws of Taiwan, with its principal place of business located at 7F, No. 137, Sec. 2, Chien Kuo N. Road, Taipei, Taiwan, R.O.C. On information and belief, Defendant ACER AMERICA CORP. is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 333 West San Carlos Street, Suite 1500, San Jose, CA 95110. ACER INC. and ACER AMERICA CORP. will be collectively referred to as “ACER.”

7. On information and belief, Defendant GATEWAY INC. (“GATEWAY”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 7565 Irvine Center Drive, Irvine, CA 92618.

8. On information and belief, Defendant YAHOO! INC. (“YAHOO”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 701 First Avenue, Sunnyvale, CA 94089.

9. On information and belief, Defendant AMAZON.COM, INC. is a corporation organized and existing under the laws of the State of Delaware, with its

principal place of business located at 1200 12th Avenue South, Suite 1200, Seattle, WA 98144. On information and belief, Defendant AMAZON DIGITAL SERVICES, INC. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1200 12th Avenue South, Suite 1200, Seattle, WA 98144. AMAZON.COM, INC. and AMAZON DIGITAL SERVICES, INC. will be collectively referred to as “AMAZON.”

III.

JURISDICTION AND VENUE

10. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* This Court has personal jurisdiction over Defendants because each has committed acts giving rise to this action within Texas and this judicial district and has established minimum contacts within the forum such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice.

11. Venue properly lies in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b), because each Defendant has committed acts within this judicial district giving rise to this action, and each Defendant “resides” in this District as it is subject to personal jurisdiction in this District. Venue is also appropriate because Defendants do business in this judicial district, including one or more of the infringing acts of offering for sale, selling, using infringing products, or providing service and support to Defendants’ customers in this District and they do so through established distribution channels.

