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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MEDIOSTREAM, INC.,

Case No. C 11-2525 RS

Plaintiff,

v.

**ORDER RE SCOPE OF TRIAL**

MICROSOFT CORPORATION, et al.,

Defendants.

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In view of its settlement with Apple, plaintiff proposes that the trial scheduled for June 24, 2013 now encompass its claims against all remaining defendants, subject to further consideration in early May. It does not appear practicable or in the interests of justice to hold a trial involving all defendants in June of this year.<sup>1</sup> Microsoft previously proposed that trial proceed against it alone, after resolution of the claims against Apple, and it has now renewed its severance motion to that same end. Microsoft also previously argued that in the event a trial involving at least one hardware defendant appeared preferable, then the first stage of trial (after Apple) should be limited to the

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<sup>1</sup> If, as defendants contend, proceeding against all defendants would require bringing other parties back into the case, trial in June of this year would be completely unworkable. Even if the presence of additional parties is not necessary, however, a trial against all remaining defendants in June is still not feasible.

1 claims against Microsoft and Dell. For its part, plaintiff previously proposed that trial proceed  
2 initially against Dell alone.

3 A trial against Dell alone is not in the interests of justice or efficient case management given  
4 the apparent role of software in any infringement analysis. Accordingly, trial shall go forward on  
5 June 24, 2013 as to at least Microsoft. Plaintiff, Microsoft, and Dell are invited to submit briefs by  
6 March 1, 2013, not to exceed 7 pages each, setting forth their views as to the advantages and  
7 disadvantages of including Dell as a party to that initial trial phase. The matter, which will subsume  
8 Microsoft's severance motion, will then be taken under submission without a hearing unless  
9 otherwise ordered.

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IT IS SO ORDERED.

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Dated: 2/22/13

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RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE

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