

United States District Court
For the Northern District of California

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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 AND
RE HEARING DATE**

MICROSOFT CORPORATION, et al.,

Defendants.

_____ /

In light of all the circumstances and in the interests of justice, the trial scheduled for June 24, 2013 shall be limited to plaintiff’s claims against Microsoft. Although liability for induced infringement turns on the existence of direct infringement, plaintiff has not shown that any advantages or efficiencies to having an alleged direct infringer participate in this phase of the trial outweigh the disadvantages and inefficiencies that would result. While there are some scenarios in which plaintiff potentially will have to defend the validity of the patent claims in successive proceedings and/or litigate some issues of direct infringement more than once, there is nothing inherently unfair in such an outcome, given that plaintiff is seeking judgments against many defendants. Furthermore, it is equally, if not more, probable that an outcome in either plaintiff’s or Microsoft’s favor will eliminate or minimize the need for further proceedings, under several possible scenarios.

1 Furthermore, the suggestion that Dell participate as a defendant but only with respect to claims
2 arising from its use of Microsoft products would impose an undue burden on Dell, while the
3 alternative of including Sonic as a party at this juncture would be unworkable.

4 Plaintiff's request for an adjustment to the May 9, 2013 hearing date on defendants'
5 forthcoming summary judgment motion will be accommodated, though as previously noted, that
6 motion may ultimately be taken under submission without oral argument. A new date will be set at
7 the upcoming hearing on March 14, 2013. The parties should meet and confer prior to that hearing
8 regarding possible dates to propose, and may consider days other than the regular Thursday law and
9 motion calendar.

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11 IT IS SO ORDERED.

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13 Dated: 3/4/13

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RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE

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