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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**WAG ACQUISITION, L.L.C.,**

Plaintiff,

v.

**MULTI MEDIA, LLC, et al.,**

Defendants.

Case No.: 2:14-cv-2340-ES-JAD

**FIRST AMENDED COMPLAINT  
AND DEMAND FOR JURY TRIAL**

Plaintiff WAG ACQUISITION, L.L.C., for its first amended complaint against Defendants, alleges infringement of United States Patent Nos. 8,122,141 and 8,327,011 (the “patents-in-suit”). Plaintiff alleges that Defendants’ Internet delivery of live adult video web cam performances infringes the patents-in-suit, as more particularly specified herein.

### **THE PARTIES**

1. Plaintiff WAG Acquisition, L.L.C. is a New Jersey limited liability company with its principal place of business at 3 Gold Mine Road, Suite 104, Flanders, New Jersey 07836.
2. On information and belief, Defendant MULTI MEDIA, LLC (“MMLLC”) is a California limited liability company with its principal place of business at 23600 El Toro Road, #D344, Lake Forest, California 92630. On information and belief, MMLLC was formerly known as ZMEDIANOW, L.L.C., and located at 200 Goddard Drive, Irvine, California 92618. On information and belief, MMLLC is doing business under a number of trade names, including without limitation chaturbate.com.
3. On information and belief, Defendants DOE 1 – DOE 20 are entities whose precise identities are unknown to Plaintiff at this time, which operate in concert with Defendant MMLLC in connection with the conduct complained of herein. Plaintiff believes that information obtained in discovery will lead to identification of each such Defendant’s true identity and permit Plaintiff to amend this complaint to state the same.

### **JURISDICTION AND VENUE**

4. The Court has 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, 35 U.S.C. §§ 1 *et seq.*
5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

### **PLAINTIFF'S BUSINESS AND DEVELOPMENTS**

6. Plaintiff, operating under the trade name SurferNETWORK, is in the business of providing Internet broadcasting services for live and on-demand audio and video program material. Plaintiff began this business in 1998, and has been one of the leading providers of such services to the terrestrial radio stations and other content providers that comprise its customer base.

7. Early in developing its business, two of Plaintiff's principals, William A. Grywalski, ("Grywalski") and Harry Emerson ("Emerson"), recognized a need that existed in the field of Internet delivery of broadcast media due to the shortcomings in the then current Internet streaming technologies. They observed that long startup delays due to "buffering" and frequent program interruptions (sometimes referred to as "jitter") made the experience of trying to listen to or view streaming Internet content frustrating to the end user, and therefore impractical as a content delivery mechanism. They were interested in making the Internet streaming experience more like radio or television, including the immediacy of having the programming appear to start instantly on demand (e.g., turning on a radio or flipping channels), and continue playing once started without random interruptions.

8. Plaintiff engaged the assistance of a software design engineer, Harold Price ("Price"), to develop solutions for the shortcomings that Grywalski and Emerson saw in the then current technology, with respect to streaming media playback performance, as well as other technological issues concerning Internet delivery of broadcast media. Price worked on several aspects of this matter for Plaintiff over the period 1999-2001.

9. Price was aware of the then current approach to streaming, which attempted to overcome streaming transmission delays and jitter by a variety of techniques, including, for example, establishing a content buffer of 20-seconds or so in duration, on the receiving (user or “client”) end of the communication, within the client’s media player or media player browser plugin. After the user selected (e.g., clicked on) a stream, the player would start filling this buffer at the playback rate and then start playing when the buffer was full. While this method did provide some protection against interruptions for the duration of whatever content was initially buffered, it entailed an undesirable startup delay for “buffering,” and provided no means for graceful recovery once the 20 seconds worth of content in the buffer was consumed.

10. Price conceived of solutions to these problems. He built a prototype that implemented one embodiment of those solutions, and he demonstrated that a system according to his new design could overcome the problems put to him by Grywalski and Emerson.

11. Plaintiff and its predecessors in interest filed a number of U.S. patent applications on these solutions, as enumerated below. To date, this family of patent applications has resulted in seven issued U.S. patents, including the two patents-in-suit. All of these patent applications were assigned to Plaintiff, or to a predecessor-in-interest of Plaintiff and reassigned to Plaintiff.

12. Plaintiff has been conducting an active, operating business ever since the developments described above, and has actively practiced technology taught in the patents-in-suit, from then to the present. Plaintiff has developed commercial

arrangements under which it streams content for numerous terrestrial radio stations and content providers in New Jersey, regionally, nationally, and internationally. It also provides a One-Click Royalty Reporter™ for radio stations to report streaming media performance royalty information to SoundExchange (a performing rights organization that collects royalties on the behalf of sound recording copyright owners ), among other services.

### **DEFENDANTS' BUSINESS ACTIVITIES**

13. Defendants operate a series of sexually explicit, pornographic web sites, featuring live, interactive webcam performances by users and “models.” Defendants’ flagship site is chaturbate.com. (References herein to “Chaturbate” or “chaturbate.com” include reference to related and affiliated web sites operated by Defendant MMLLC and/or Doe Defendants.)

14. Defendants recruit users and models and take live feeds from their individual web cams, over the Internet, for redistribution through Defendants’ servers. Users can selectively view any of the individual streams through an interface that also provides an interactive “chat” window. Through the chat interface, a user can chat with other users and models, and request performances and “private sessions.”

15. The currency used on Chaturbate to pay and tip for services consists of “tokens” purchased from Defendants via credit card. The chat windows provided on the Chaturbate web site provide mechanisms to buy, pay, and tip with tokens. Defendants derive substantial revenue from the money that users spend for tokens on the Chaturbate site.

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