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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. HENRY C. YUEN and ELSIE M. LEUNG, Defendants.	Case No. CV 03-4376 NM (MANx) **COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS** **DEMAND FOR JURY TRIAL**

Plaintiff Securities and Exchange Commission ("Commission") alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)(1), and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77t(b), 77t(d)(1), and 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e) and 78aa. Defendants have, directly or indirectly,

made use of the means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange in connection with the transactions, acts, practices and courses of business alleged in this Complaint.

2. Venue is proper in this district pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C. § 78aa, because defendants reside, and certain of the transactions, acts, practices and courses of conduct constituting violations of the laws alleged herein occurred, within this district.

SUMMARY

3. Beginning in 2000 and continuing through the third quarter of 2002, Gemstar-TV Guide International, Inc. ("Gemstar") materially overstated its revenues and other financial results, and misled investors about the company's financial performance. During the relevant period, defendant Henry C. Yuen was the Chairman of the Board and Chief Executive Officer of Gemstar, and defendant Elsie M. Leung was its Chief Financial Officer, a Chief Operating Officer, and a member of the Board of Directors. Because of the conduct of Yuen and Leung, Gemstar fraudulently overstated and misreported at least $223 million of revenues during this period.

4. During the relevant period, Gemstar licensed for a fee an interactive program guide for television ("IPG") that allowed viewers to navigate through and select television programs. Gemstar reported this licensing revenue as Licensing and Technology Sector ("Licensing Sector") revenue. Gemstar also sold advertising on the IPG, which was a new advertising medium, and reported revenue for IPG advertising as Interactive Platform Sector ("IP Sector") revenue. In July 2000, Gemstar merged with TV Guide, Inc., which published *TV Guide* magazine, and Gemstar reported *TV Guide* magazine revenue as Media and Services Sector ("Media Sector") revenue.

5. After the merger with TV Guide, Gemstar and Yuen emphasized to securities analysts and the public that the best measure of the company's financial performance was not its consolidated financial statements for the company as a whole, purportedly prepared in accordance with generally accepted accounting principles ("GAAP"), but rather its Licensing Sector and IP Sector revenue, and Gemstar's unique definition of "EBITDA," which it used as a measure of cash flow. Gemstar and Yuen touted growth in the Licensing and IP Sectors as the "value drivers" of the company, emphasized increases in EBITDA, and downplayed expected declines in revenue from *TV Guide* as reported in the Media Sector. During the relevant period, Gemstar's financial results generally showed slight declines in consolidated revenues, but substantial increases in Licensing and IP Sector revenues and in EBITDA. Significantly, Gemstar's announced results always met or exceeded its projections, specifically, projections announced by Yuen in conference calls to securities analysts or in press releases.

6. To enable Gemstar to meet its and Yuen's projections, Yuen and Leung, and possibly others, engaged in a fraudulent scheme to overstate Gemstar's revenues, and in particular its revenues in the highly touted Licensing and IP Sectors. In general, Yuen and Leung manipulated Gemstar's financial results in three ways. First, Gemstar improperly recorded revenue under expired, disputed, or non-existent agreements, and reported this revenue as Licensing Sector revenue and/or IP Sector revenue. Second, Gemstar recorded amounts from related transactions as if they were not related, some of which included round-trip (*i.e.*, Gemstar paid money to a third-party and then received it back) and non-monetary payments, and reported this as IP Sector revenue. Third, Gemstar switched revenues from the Media and Licensing Sectors to the IP Sector to show dramatic growth and acceptance of IPG advertising, when, in fact, such growth and acceptance did not exist. The recording and reporting of these revenues in this

manner was not in accordance with GAAP, and material information was not disclosed to investors.

7. These misstatements of revenue were material, and allowed Gemstar to meet its and Yuen's ambitious projections for revenue growth in the Licensing and IP Sectors, and in EBITDA. When Gemstar disclosed in its 2001 Form 10-K filed on April 1, 2002, that approximately $127 million in revenue from two transactions had been recorded under an expired licensing agreement and in a non-monetary transaction, Gemstar's stock price declined by approximately 37% the next day. Since Yuen and Leung resigned from Gemstar, Gemstar has restated or reversed approximately $357 million in revenue for the relevant period.

8. Because their compensation was tied to Gemstar's reported financial results, defendants Yuen and Leung reaped millions of dollars in financial gains from the fraudulent scheme in excess salary, bonuses, and options. Yuen reaped additional financial gains from the disposition of millions of shares of Gemstar stock at inflated prices.

9. Yuen and Leung were involved in each of the transactions alleged herein, either directly or indirectly, and knew, or were reckless in not knowing, that the recorded and reported revenues of Gemstar were overstated, and that the periodic filings and other statements to the public either contained materially false information, or failed to disclose material facts.

THE DEFENDANTS

10. Henry C. Yuen is a resident of Pasadena, California. Yuen was a co-founder of Gemstar, and served as its Chief Executive Officer from August 1994 to November 7, 2002, President from August 1994 to July 2000, Chairman of the Board from January 1999 to April 2003, and a director from April 1992 to April 2003.

11. Elsie M. Leung is a resident of Pasadena, California. Leung was Gemstar's Chief Financial Officer from 1994 to November 7, 2002, a

Co-President from July 2000 to November 7, 2002, Chief Operating Officer or a Co-Chief Operating Officer from January 1996 to November 7, 2002, and a director from 1994 to May 2003. Leung is a certified public accountant licensed in the State of California.

RELATED ENTITY

12. Gemstar is a Delaware corporation with its principal place of business in Los Angeles, California. Gemstar's securities are registered with the Commission pursuant to Section 12(g) of the Exchange Act. Gemstar's common stock is traded on the Nasdaq stock market under the symbol "GMST," and its stock is covered by Wall Street analysts who routinely issue quarterly and annual earnings estimates.

GEMSTAR'S FINANCIAL REPORTING

13. Public companies such as Gemstar report the financial results of their operations in periodic reports filed with the Commission and prepared in accordance with GAAP, earnings press releases, and conference calls with securities analysts and investors. Gemstar reported its financial results in quarterly reports on Form 10-Q, and in annual reports on Form 10-K filed with the Commission. Gemstar reported extraordinary occurrences or current events on Form 8-K. Gemstar also issued press releases and held conference calls with securities analysts and investors on a periodic basis, usually about the time Gemstar made its filings with the Commission.

14. In its financial reports beginning with the quarter ending September 30, 2000, in addition to providing investors with financial statements purportedly prepared in accordance with GAAP, Gemstar included "pro forma" financial results, *i.e.*, results of operations not prepared in accordance with GAAP. Beginning in early 2001, Gemstar reported pro forma financial results for its three major business sectors, namely (1) the Licensing Sector, (2) the IP Sector, and (3) the Media Sector.

15. Yuen and Leung played significant roles in Gemstar's accounting and financial reporting. Yuen was involved in structuring transactions, approving the form of transactions, directing others concerning ways to increase IP Sector revenues, and providing information to Leung regarding terms of transactions. Leung, as Gemstar's CFO, oversaw and was ultimately responsible for Gemstar's accounting, including recording and reporting the recognition of revenue. Yuen and Leung signed representation letters to Gemstar's outside auditor, KPMG LLP, in connection with its annual audits and quarterly reviews, concerning the status of certain transactions. Yuen and Leung also discussed various accounting issues with KPMG.

16. Yuen and Leung participated in Gemstar's financial reporting by reviewing, editing, and approving all Commission filings and earnings press releases. Yuen signed the Forms 10-K, and Leung signed all of the Forms 10-K and 10-Q. Gemstar reported the fraudulent revenues from the transactions alleged herein in Forms 10-K for the fiscal years ended March 31, 2000, December 31, 2000, and December 31, 2001; and in quarterly reports on Form 10-Q for the quarters ended June 30, 2000, September 30, 2000, March 31, 2001, June 30, 2001, September 30, 2001, and March 31, 2002. Gemstar also filed a current report on Form 8-K, dated September 25, 2002, which contained certain preliminary financial and other information for the quarter ended June 30, 2002. After Yuen and Leung resigned, Gemstar filed a Form 10-Q for the quarter ended September 30, 2002, which reported revenue from certain of the transaction alleged herein.

17. After the merger with TV Guide, Gemstar and Yuen also provided on a regular basis financial projections for the next quarter and fiscal year. Gemstar's financial results almost always met or exceeded Gemstar's, and Yuen's, earlier projections. Gemstar's financial results generally showed slight declines in consolidated revenues, but significant increases in consolidated EBITDA, and in

Licensing and IP Sector revenues and EBITDA. The financial results also showed slight declines in Media Sector revenue and EBITDA. The term "EBITDA" is an acronym that generally refers to earnings before interest, taxes, depreciation, and amortization; however, Gemstar defined EBITDA as operating income before non-cash stock compensation expense, depreciation, amortization, and non-recurring expenses.

18. Yuen and Leung commented on Gemstar's consolidated and sector financial results in earnings releases issued to the public, and in conference calls with analysts and investors. In public statements, Yuen attributed the increase in Licensing Sector revenue and EBITDA primarily to continued growth in IPG licensing. Yuen explained that increases in IP Sector revenue were due to advertisers' growing acceptance of the new IPG advertising medium. In fact, however, Gemstar's ability to obtain additional IPG licensing agreements was adversely affected by increased competition, as well as by a number of lawsuits and disputes in which Gemstar's patents were at issue. Gemstar's ability to sell IPG advertising was adversely affected by the fact that IPG advertising was a new and unproven media, and there were no independent quantitative measurements of the effectiveness of advertising on the IPG.

19. Gemstar issued false and misleading earnings releases reporting fraudulent revenues from the transactions alleged herein on May 31, 2000; August 14, 2000; November 13, 2000; March 7, 2001; May 14, 2001; August 13, 2001; November 14, 2001; March 18, 2002; and May 15, 2002.

20. Yuen and Leung commented on Gemstar's financial performance and/or its earnings reports, which contained the fraudulent revenues from the transactions alleged herein, and otherwise misrepresented Gemstar's financial performance, during conference calls with securities analysts and investors on May 31, 2000; August 14, 2000; November 13, 2000; November 16, 2000; March

7, 2001; May 14, 2001; August 13, 2001; November 14, 2001; March 18, 2002; April 2, 2002; May 15, 2002; and June 24, 2002.

21. On June 27, 2002, the Commission issued an Order that required CEOs and CFOs of certain companies, including Gemstar, to certify the accuracy of their financial statements no later than August 14, 2002. On August 14, 2002, Gemstar filed a Form 8-K stating that Yuen and Leung could not certify Gemstar's financial statements. On September 26, 2002, Gemstar filed a Form 8-K, in which Yuen and Leung each submitted a sworn statement that, subject to two pending previously announced possible restatements and to the best of his or her knowledge, Gemstar's 2001 Form 10-K, March 31, 2002 Form 10-Q, and September 26, 2002 Form 8-K were accurate and complete.

22. In fact, these filings, and other periodic filings, materially overstated Gemstar's financial performance and failed to disclose material facts about the transactions alleged herein. Yuen and Leung reviewed and approved, and Yuen and/or Leung signed, these periodic filings which they knew, or were reckless in not knowing, overstated and misrepresented Gemstar's financial results.

YUEN'S AND LEUNG'S PROFIT FROM THE FRAUD

23. Yuen and Leung profited from the fraudulent reporting of Gemstar's revenues. Their compensation was based in large part on Gemstar's financial results. Yuen and Leung had similar compensation agreements which provided for a base salary that was increased each year by a formula that used Gemstar's reported financial results. Defendants' compensation agreements also provided for bonuses, which were calculated under a formula that used the increased base salary and other factors from Gemstar's reported financial results. Yuen and Leung were also awarded stock options under their employment agreements.

24. During the fraud, and specifically in March and April 2002, Yuen entered into a complex "prepaid forward" transaction involving approximately 7

million shares of Gemstar stock that allowed Yuen to realize over $59 million in cash, and entitles Yuen to possible future payments.

25. From 2000 through 2002, Yuen received approximately $18.8 million in salary and bonuses; exercised stock options for a taxable profit of approximately $14.6 million; and realized over $59 million in proceeds and benefits from the disposition of Gemstar securities. Yuen seeks additional payments from Gemstar of over $29 million in cash, which he claims consists of a termination fee and salary, bonus, and vacation pay that he is owed.

26. From 2000 through 2002, Leung received over $5.3 million in salary and bonuses, and exercised stock options for a taxable profit of approximately $4.9 million. Leung seeks additional payments from Gemstar of over $8.1 million in cash, which she claims consist of a termination fee and salary, bonus, and vacation pay that she is owed.

THE FRAUDULENT SCHEME

Revenue from Scientific-Atlanta Recorded and Reported Under Expired and Disputed Agreement

27. Scientific-Atlanta is a Georgia corporation based in Lawrenceville, Georgia, that provides equipment and services to the cable television industry. In April 1997, Scientific-Atlanta and StarSight Telecast, Inc. entered into a three-year License and Settlement Agreement ("Settlement Agreement") which expired in July 1999, under which Scientific-Atlanta agreed to pay StarSight a per unit fee for each unit incorporating an IPG. Gemstar acquired StarSight in May 1997.

28. Before the Settlement Agreement expired, Gemstar and Scientific-Atlanta attempted to negotiate a possible extension of the agreement, and they continued to negotiate after the agreement expired. However, the two companies were not able to agree on major terms and, between late 1998 and early 2001, Gemstar and Scientific-Atlanta initiated seven different lawsuits against each other relating to the alleged misappropriation of each other's intellectual property.

Yuen and Leung knew that these lawsuits had been filed, and were kept informed of the status of the negotiations. Yuen and Leung also knew that Gemstar was not making any substantial progress in its negotiations with Scientific-Atlanta.

29. After the Settlement Agreement expired in 1999, Scientific-Atlanta stopped all payments to Gemstar, and Gemstar stopped recording any revenue from Scientific-Atlanta, until the quarter ended March 31, 2000. Beginning with the period ended March 31, 2000, however, Gemstar began recording and reporting revenue in its Licensing Sector based upon the expired agreement with Scientific-Atlanta even though Scientific-Atlanta was not making any payments to Gemstar.

30. From the first calendar quarter of 2000 (which at the time was the end of Gemstar's fiscal year) through the first quarter of 2002, Gemstar recorded and reported a total of $113.5 million in Licensing Sector revenue based upon the expired and contested Scientific-Atlanta Settlement Agreement. Gemstar never received any of this revenue from Scientific-Atlanta.

31. The revenue that was based upon the expired Settlement Agreement with Scientific-Atlanta was material to Gemstar's financial results, and enabled Gemstar to meet its and Yuen's financial forecasts, as well as those of analysts.

32. For the fiscal year ended March 31, 2000, Gemstar recorded and reported approximately $12 million in revenue based upon the expired Settlement Agreement, which was approximately 5% of its consolidated revenues for the period.

33. For the nine months ended December 31, 2000, Gemstar recorded and reported over $36.4 million in revenue from Scientific-Atlanta, which was approximately 5% of total revenue, 15% of EBITDA, 18.5% of Licensing Sector revenue, and over 27% of Licensing Sector EBITDA.

34. For the year ended December 31, 2001, Gemstar recorded and reported approximately $58.9 million in revenue from Scientific-Atlanta, which

was over 4.3% of total revenue, 12% of EBITDA, 18% of Licensing Sector revenue, and 25% of Licensing Sector EBITDA.

35. In the first quarter of 2001, Gemstar recorded and reported approximately $5.8 million in revenue from Scientific-Atlanta, which was approximately 2% of total revenue, 5.7% of EBITDA, over 9% of Licensing Sector Revenue, and over 11% of Licensing Sector EBITDA.

36. Gemstar's recognition of revenue from Scientific-Atlanta under the expired Settlement Agreement did not conform with GAAP. There was no agreement, or persuasive evidence of an agreement, between Scientific-Atlanta and Gemstar. At the time that Gemstar recorded the revenue, Scientific-Atlanta was litigating any potential licensing fees it owed Gemstar, and no substantial progress had been made in negotiating a new agreement. Scientific-Atlanta had not expressed any willingness to pay licensing fees to Gemstar under the expired Settlement Agreement, and collection of this "revenue" at the time it was recorded and reported was uncertain.

37. Yuen and Leung each signed management representation letters to Gemstar's auditors stating that Scientific-Atlanta had either verbally or in writing communicated an intention to enter into a new contract, or that Scientific-Atlanta had expressed a willingness to extend the terms and conditions of the expired contract. In fact, both Yuen and Leung knew, or were reckless in not knowing, that Scientific-Atlanta had not expressed any such intention or willingness.

38. Yuen and Leung knew, or were reckless in not knowing, that the Scientific-Atlanta revenue was not properly recorded and reported as revenue, and that Gemstar's public statements, including periodic filings and press releases, contained material misstatements and omitted to state material facts concerning the recording and reporting of revenue from Scientific-Atlanta.

39. In 2002, after Yuen and Leung resigned as Gemstar officers, Gemstar reversed its recognition of all $113.5 million of revenue from Scientific-Atlanta that had been reported in its financial statements.

Revenue from Time Warner Cable
Reported Despite Lack of Agreement

40. AOL Time Warner, Inc. ("AOL/Time Warner") is a Delaware corporation based in New York, New York. AOL/Time Warner was formed by the January 2001 merger of America Online, Inc. ("AOL") and Time Warner, Inc. ("Time Warner"). The merger was accomplished through the creation of a new holding company, AOL/Time Warner, that acquired AOL and Time Warner as its two subsidiaries. The combined AOL/Time Warner operates various media businesses, including the AOL operations, and cable television systems operated through Time Warner Cable ("Time Warner Cable").

41. In May 1999, Gemstar entered into an eight-year licensing agreement with AOL which granted AOL and its affiliates a license to use Gemstar's IPG for a per subscriber monthly fee (the "AOL IPG Agreement"). The AOL IPG Agreement required AOL to provide written notice to Gemstar if AOL elected to have an affiliate covered under the AOL IPG Agreement. From the date of the January 2001 merger between AOL and Time Warner through at least December 2002, AOL/Time Warner did not provide Gemstar with written notice stating that Time Warner Cable should be included in the AOL IPG Agreement.

42. Even though AOL/Time Warner did not provide written notice to include Time Warner Cable in the AOL IPG Agreement, Gemstar began recording and reporting licensing revenue from Time Warner Cable in the third quarter of 2001, ended September 30, 2001. Gemstar continued to report Time Warner Cable licensing revenue through the first quarter of 2002, ended March 30, 2002. In those three quarters, Gemstar recorded and reported a total of approximately

$18.1 million in licensing revenue from Time Warner Cable. This revenue was reported as Licensing Sector revenue in Gemstar's pro forma financial statements.

43. Gemstar recorded this revenue even though it had received two letters from AOL/Time Warner, dated April 3, 2001, in which AOL/Time Warner informed Gemstar that Time Warner Cable was not covered under the AOL IPG Agreement. Yuen and Leung were aware of these letters.

44. Leung initiated and made the decision to record and report revenue from Time Warner Cable under the AOL IPG Agreement. Yuen knew of and approved reporting of the revenue. In each of the three quarters in which revenue from Time Warner Cable was improperly recorded and reported, Yuen and Leung signed representation letters to Gemstar's outside auditors stating their belief that the Time Warner Cable licensing revenue was being recorded under a contractual obligation with AOL. However, neither AOL/Time Warner nor Time Warner Cable paid any of the $18.1 million to Gemstar.

45. Yuen misrepresented to Gemstar's outside auditors that high level AOL/Time Warner executives had acknowledged that Time Warner Cable was covered under the AOL IPG Agreement. In fact, Gemstar was continuing to negotiate whether and on what terms Time Warner Cable might be covered under the AOL IPG Agreement. Yuen and Leung were kept informed of these negotiations.

46. The revenue from Time Warner Cable was material to Gemstar's financial results, and contributed to Gemstar's ability to meet its and Yuen's financial projections, and projections by analysts. In the third quarter of 2001, Gemstar recorded and reported approximately $5.3 million in revenue from Time Warner Cable, which was approximately 6.4% of Gemstar's Licensing Sector Revenue and 9.4% of the Licensing Sector EBITDA.

47. For the fiscal year ended December 31, 2001, Gemstar recorded and reported approximately $11.3 million in revenue from Time Warner Cable, which

was approximately 3.5% of Licensing Sector revenue and 4.9% of Licensing Sector EBITDA.

48. In the first quarter of 2002, Gemstar recorded and reported $6.8 million in revenue from Time Warner Cable, which was 11% of Licensing Sector revenue and 13.5% of Licensing Sector EBITDA.

49. Gemstar's recognition of revenue from Time Warner Cable violated GAAP because, among other things, there was no persuasive evidence of a written arrangement between Gemstar and AOL concerning the inclusion of Time Warner Cable in the AOL IPG Agreement. In fact, AOL had informed Gemstar that Time Warner Cable was not covered under that agreement. Collectibility of the revenue was not reasonably assured because, among other things, Gemstar had not received any payments and Time Warner Cable had not acknowledged that any amounts were due to Gemstar.

50. Yuen and Leung failed to disclose that Gemstar was recording and reporting revenue from Time Warner Cable under the AOL IPG Agreement, and that Time Warner Cable and AOL disputed whether the AOL IPG Agreement covered Time Warner Cable.

51. Yuen and Leung knew, or were reckless in not knowing, that the Time Warner Cable revenue was not properly recorded and reported as revenue, and that Gemstar's public statements, including periodic filings and press releases, contained material misstatements and omitted to state material facts concerning the recording and reporting of revenue from Time Warner Cable.

52. In 2003, after Yuen and Leung resigned as Gemstar officers, Gemstar announced that it was reversing the $18.1 million in licensing revenue from Time Warner Cable that it had previously reported.

Manipulation of Agreement with Thomson to Create IPG Advertising Revenue

53. Thomson, S.A., ("Thomson"), a French corporation based in Paris, France, manufactures consumer electronics, including RCA products. Thomson licensed various technologies from Gemstar. In 1999, Gemstar entered into an agreement with Thomson under which Thomson acquired a license to incorporate Gemstar's IPG technology into DirecTV satellite units (the "DirecTV Agreement"). The DirecTV Agreement provided that Thomson would pay Gemstar $9 for each unit sold, and that Gemstar would pay Thomson a "market development fund" ("MDF") of $4 for each unit sold. A proportion of the MDF was to be used for Thomson advertising on Gemstar, and a portion paid in cash. The proportional split between advertising and cash depended on whether the unit sold contained Gemstar's IPG. By the end of 2000, Thomson disputed the amount of MDF it was owed in cash by Gemstar. In late 2000, Thomson representatives agreed with Yuen to settle the dispute concerning MDF for the year 2000; however, the DirecTV Agreement was not modified.

54. In early 2001, Yuen told Leung that Thomson had agreed to modify the DirecTV Agreement to change the MDF to a "platform fee" of $4, and that Thomson agreed to purchase $2.80 per unit in IPG advertising. In fact, Thomson had not agreed to such a modification. Yuen knew, or was reckless in not knowing, that Thomson had not agreed to such a modification.

55. Leung directed that Gemstar run advertising on its IPG for Thomson during 2001, pursuant to the purported modification communicated to her by Yuen. Leung controlled the timing and placement of all advertising run by Thomson under the purported modification of the agreement. Leung knew, or was reckless in not knowing, that no such modification existed or was effective.

56. In 2001, Gemstar changed its accounting of the DirecTV Agreement to increase IP Sector revenue. Prior to 2001, all revenue and expenses relating to the DirecTV Agreement were recorded in Gemstar's Licensing Sector. However, in 2001, Gemstar recorded $9 per unit as Licensing Sector revenue, $4 per unit as

Licensing Sector expense, and $2.80 per unit as IP Sector revenue. As the result of this change, rather than reporting $9 per unit in total revenues under the DirecTV Agreement as it had in 2000, in 2001 Gemstar reported $11.80 per unit in total revenues for the same units, or an increase of approximately 31%. Gemstar, Yuen, and Leung did not disclose this to investors.

57. In early 2002, in connection with Gemstar's 2001 year-end audit, KPMG sent a letter requesting that Thomson confirm it owed Gemstar $12.425 million for IPG advertising in 2001, which included the $10.1 million Gemstar had recorded under the purported modification to the DirecTV Agreement. Thomson refused to sign the confirmation because it was disputing with Gemstar the amount owed. After receipt of the audit confirmation letter and negotiations between Yuen and Thomson, Thomson and Gemstar negotiated a settlement and Thomson signed the confirmation. On March 12, 2002, Yuen signed a rider to the DirecTV Agreement.

58. In 2001, Gemstar improperly recorded and reported as IP Sector revenue $10.1 million for IPG advertising from Thomson under the DirecTV Agreement. Gemstar's accounting for this transaction did not comport with GAAP, because recognition of the revenue was not in accordance with the terms of the agreement between Gemstar and Thomson, Thomson had not requested or authorized the advertising (except for $600,000 personally requested by Yuen), and payment by Thomson was uncertain. It was also not possible to determine the fair value of the advertising, because Gemstar did not have any comparable transactions in the new and unproven medium of IPG advertising to support any valuation.

59. The Thomson DirecTV IPG advertising revenue was material to Gemstar's financial statements, and enabled Gemstar to meet its and Yuen's projections, as well as those of analysts. The $10.1 million was approximately 10% of Gemstar's reported IP Sector revenue for 2001.

60. Yuen and Leung knew, or were reckless in not knowing, that the Thomson DirecTV revenue was not properly recorded and reported as revenue, and that Gemstar's public statements, including periodic filings and press releases, contained material misstatements and omitted to state material facts concerning the recording and reporting of revenue from Thomson.

61. After Yuen and Leung resigned as Gemstar officers, Gemstar reversed the recognition of approximately $8.7 million of this revenue and restated its financial statements.

The Thomson eBooks Transactions
with Related IPG Advertising Buys

62. In the last quarter of 2001 and the first three quarters of 2002, Gemstar recorded and reported approximately $13.1 million in IP Sector revenue for IPG advertising from Thomson. This advertising revenue, however, related to the unwinding of a business relationship that Gemstar and Thomson had entered into in 1999 to produce eBooks, a handheld electronic device that allowed users to download and view reading material. Thomson manufactured the device and Gemstar supplied the technology and content.

63. Under a 1999 licensing agreement, Gemstar granted Thomson a five-year license to the eBook technology for $25 million. In late 2000, Thomson and Gemstar began selling eBooks. By mid 2001, Thomson decided to exit the eBook business due to poor sales and Gemstar's failure to provide adequate content. Gemstar and Thomson agreed that Gemstar would purchase Thomson's remaining eBook inventory and would restructure the eBook licensing agreement.

64. In October and November 2001, Gemstar and Thomson negotiated the terms of Thomson's exit from the eBook venture. Initially, Gemstar agreed to purchase Thomson's inventory of eBook devices for approximately $6.8 million, and in return, Thomson agreed to purchase $2 million in IPG advertising from Gemstar during the last quarter of 2001. Yuen was provided with the draft

agreement, and Yuen instructed a subordinate that the advertising commitment should be in a separate side letter, and inserted a question mark concerning the price for the inventory.

65. In or about November 2001, Yuen received another draft of the eBooks inventory agreement. In this draft, the price for Thomson's eBook inventory had increased by approximately $4.8 million, to approximately $11.6 million. Drafts of side letters showed that the amount Thomson agreed to pay for IPG advertising increased by a corresponding $4.8 million, to a total of $6.8 million -- approximately $2.2 million in 2001 and $4.6 million in 2002.

66. Yuen negotiated with Thomson the restructuring of the eBooks licensing agreement. In late November 2001, Yuen proposed that Gemstar would agree to (1) reduce the licensing fee from $25 million to $20 million; and (2) pay Thomson $20 million in MDF funds. In turn, Thomson would agree to purchase $20 million in advertising from Gemstar. In early 2002, Gemstar and Thomson memorialized this transaction.

67. The revenue from these transactions was material to Gemstar's financial statements, and enabled Gemstar to meet its and Yuen's projections, as well as those of analysts. In the fourth quarter of 2001, Gemstar recorded and reported approximately $2.2 million in revenue from the eBook inventory transaction, which was approximately 7.7% of IP Sector revenue.

68. In the first three quarters of 2002, Gemstar recorded and reported a total of approximately $10.95 million in IP Sector revenue from these transactions. During each quarter in 2002, Gemstar recorded and reported approximately $3.65 million in IP Sector revenue from these deals, or approximately 16% of IP Sector revenue each quarter.

69. Gemstar did not record in its books and records the $2.5 million quarterly MDF amount that it purportedly owed Thomson in each of the first three quarters of 2002.

70. Gemstar's accounting for these transactions did not comport with GAAP. The purchase price of the eBook inventory was artificially inflated so that Gemstar could provide funds to Thomson to, in turn, purchase IPG advertising from Gemstar. Similarly, Gemstar created the MDF obligation solely for the purpose of providing apparent funds for Thomson to "purchase" a corresponding amount of IPG advertising from Gemstar. There was no economic substance associated with the agreement to overpay for the eBook inventory, or to round-trip the MDF funds to provide IP Sector revenue.

71. Because of the actions of Yuen and Leung, Gemstar failed to disclose that a material amount of its IP Sector revenues for the fourth quarter of 2001 and the first three quarters of 2002 resulted from these transactions with Thomson. Gemstar failed to disclose that it had increased the amount it paid for the eBook inventory so that Thomson could purchase an equal amount of IPG advertising. Gemstar failed to disclose that it agreed to pay a MDF to Thomson that was used to purchase an equal amount of IPG advertising.

72. Yuen knew of and approved the structure of these transactions. Yuen knew, or was reckless in not knowing, that these transactions were structured to increase artificially Gemstar's IP Sector revenue, and that the advertising purchases had no economic substance and were artificially inflated. Yuen caused the transactions to be structured to permit Gemstar to record advertising revenue as if these were not related transactions. Yuen knew that Leung controlled the advertising so that Gemstar would meet its, and Yuen's, financial projections.

73. Leung also played a central role in Gemstar's improper recording and reporting of the Thomson eBook transactions. Leung knew, or was reckless in not knowing, that advertising was related to the eBooks inventory transaction and the eBooks license restructuring. Leung controlled the timing and placement of the advertising, and recording and reporting of the related revenue so that Gemstar would meet its, and Yuen's, financial projections.

74. Yuen and Leung knew, or were reckless in not knowing, that the revenue was not properly recorded and reported, and that Gemstar's public statements, including periodic filings and press releases, contained material misstatements and omitted to state material facts concerning the recording and reporting of revenue from Thomson under these agreements.

75. After Yuen and Leung resigned as Gemstar officers, Gemstar reversed the recognition of this revenue.

The Fantasy Sports Transaction and
$20 million IPG Advertising Overstatement

76. Fantasy Sports Properties, Inc. ("Fantasy Sports") is a Virginia corporation with its principal place of business in Reston, Virginia. Fantasy Sports operates an Internet-based business engaged in the creation and implementation of fantasy sports games. During January 2001, Fantasy Sports offered to sell its entire business to Gemstar for approximately $5 to $10 million. By February 2001, Fantasy Sports had agreed to sell its business to Gemstar for approximately $7 million.

77. In June 2001, Gemstar finalized a transaction with Fantasy Sports in which Gemstar (1) acquired Fantasy Sports' intellectual property for approximately $20.75 million, of which $750,000 was paid in cash and $20 million was to be paid in the form of advertising run by Gemstar; and (2) paid $2 million to acquire a 2-year option to purchase Fantasy Sports for $3 million. At the time, Fantasy Sports had projected revenues for 2001 of less than $800,000.

78. During 2001, Gemstar recorded and reported $20 million in IP Sector revenue from Fantasy Sports as the result of this transaction.

79. In an April 2, 2002 conference call, Yuen told analysts that Fantasy Sports was a "very strong, rapidly growing company," was looking for new members for its fantasy leagues, had a great use for IPG advertising and, therefore, "applied a lot of the cash that [it] received into the purchase of [IPG] advertising."

Yuen, however, misrepresented that Fantasy Sports had paid for the advertising, and omitted that Gemstar had inserted the advertising into the transaction and had discretion over the running of the advertising.

80. In fact, Fantasy Sports never paid $20 million in cash, or any cash, to Gemstar for advertising on the IPG.

81. Yuen and Leung approved the structure of the transaction with Fantasy Sports. Leung was responsible for recording and reporting the revenue, and controlled the timing and placement of the Fantasy Sports advertising. Indeed, Gemstar purportedly ran approximately $3.8 million in IPG advertising for Fantasy Sports in the first quarter of 2001, before a deal had even been reached, but subsequently reported only $1.9 million of that as revenue for the first quarter of 2001. At the time, Fantasy Sports did not have sufficient revenue to pay for either $3.8 million or $1.9 million in advertising.

82. The $20 million in revenue from the Fantasy Sports transaction was material to Gemstar's financial statements. This revenue was 19.7% of Gemstar's total 2001 IP Sector revenue, and contributed substantially to Gemstar's ability to meet its projected IP Sector revenues for 2001.

83. Gemstar's recognition of $20 million in revenue from the Fantasy Sports transaction did not conform with GAAP. Gemstar purportedly ran $3.8 million in advertising before it had any agreement with Fantasy Sports, and then recorded and reported $1.9 million of this as part of the total $20 million. Fantasy Sports did not have the financial ability to pay for the advertising. In fact, all of the $20 million that Gemstar purportedly received came solely from Gemstar's agreement to pay approximately $21 million for Fantasy Sports' intellectual property. Gemstar could not properly value the advertising because it lacked any reasonable basis to determine the fair value of the IPG advertising.

84. Yuen and Leung knew, or were reckless in not knowing, that the Fantasy Sports revenue was not properly recorded and reported as revenue, and

that Gemstar's public statements, including periodic filings and press releases, contained material misstatements and omitted to state material facts concerning the recording and reporting of revenue from the Fantasy Sports transaction.

85. In November 2002, Gemstar announced that it was reversing recognition of the $20 million in IPG advertising from the Fantasy Sports transaction.

Diversion of Revenue from the Media and Licensing Sectors to the IP Sector

86. In the second half of 2001, Gemstar recognized and reported as IP Sector revenue $5.6 million for IPG advertising that, in fact, related to Gemstar's sale of print advertising. Gemstar recorded this amount as IP Sector revenue even though (1) the advertisers had already committed to purchase print advertising; (2) Gemstar gave the advertisers an equal amount of IPG advertising for free; and (3) Gemstar shifted the revenue from the Media Sector to the IP Sector by invoicing the advertisers for the IPG and print advertising, but recording the revenue only as IPG advertising revenue.

87. The $5.6 million shift to the IP Sector was material to Gemstar's financial statements. The $5.6 million constituted 5.5% of Gemstar's total 2001 IP Sector revenue, and without this revenue Gemstar would not have met its IP Sector revenue for 2001 projections.

88. Yuen directed Gemstar employees to switch revenue from print to IPG advertising. Leung supervised the preparation of invoices and accounting for the transactions.

89. Yuen and Leung knew, or were reckless in not knowing, that the diversion of revenue from the Media Sector to the IP Sector was not proper, and that Gemstar's public statements, including periodic filings and press releases, contained material misstatements and omitted to state material facts about this revenue.

90. After Yuen and Leung resigned as Gemstar officers, Gemstar reallocated this $5.6 million in revenue to the Media Sector.

Sale of WGN with Undisclosed IPG Advertising Buy

91. The Tribune Company ("Tribune") is a Delaware corporation based in Chicago, Illinois, that operates various media businesses, including WGN TV station. Under a 1990 agreement, Tribune supplied Gemstar with a WGN signal for nationwide distribution.

92. In or about December 1999, Tribune informed Gemstar that it wanted to end the relationship by buying Gemstar's WGN distribution business. In or about August 2000, Gemstar proposed to sell the asset for approximately $300 million, based upon a study that valued the business between $277 million and $719 million. In or about November 2000, Gemstar proposed that a portion of the price should include an advertising buy. Gemstar initially proposed a five-year, $112 million advertising commitment by Tribune, which advertising would be controlled by Gemstar in its sole discretion. Tribune responded with a counter-proposal that included an advertising commitment, which was presented to Gemstar's Board of Directors.

93. After Tribune and Gemstar agreed in principle to include the advertising commitment in the transaction, Gemstar requested that Tribune eliminate all "linkage" between the advertising deal and the sale of the WGN distribution rights. Gemstar requested that the advertising commitment appear to be completely separate from the WGN deal, for tax and audit purposes. Gemstar was concerned that the transaction be structured so that Gemstar could recognize the advertising revenue. However, Gemstar also insisted that the agreement provide that Tribune could not disclose to the public the terms of the agreement, including the existence of the advertising commitment.

94. In or about April 2001, Gemstar and Tribune finalized a transaction to end Gemstar's distribution of the WGN signal. Under the final agreement, Tribune paid $106 million in cash to Gemstar. In a related agreement, Tribune committed to purchase $100 million of advertising from Gemstar over a period of six years.

95. The final advertising agreement provided that Tribune would pay Gemstar $100 million over six years, whether or not Tribune used the advertising. It further provided that Gemstar had sole discretion over the timing and placement of the advertising, provided that Gemstar could not run more than 50% of any year's advertising in any one quarter, and at least 15% of the advertising had to be run in *TV Guide* magazine.

96. During the last three quarters of 2001, Gemstar recorded and reported a total of $12 million in IP Sector revenue under this agreement, or 11.9% of total IP Sector revenue for the year. In the second quarter of 2001, Gemstar recorded and reported $4.5 million of IP Sector revenue under this agreement, which was 21.9% of IP Sector revenue for the quarter. In the third quarter, Gemstar recorded and reported $4.5 million of IP Sector revenue, which was 15.4% of IP Sector revenue for the quarter. In the fourth quarter of 2001, Gemstar recorded and reported $3 million of IP Sector revenue under this agreement, which was 8.1% of IP Sector revenue for the quarter.

97. During the first three quarters of 2002, Gemstar recorded and reported $14 million in IP Sector revenue from this agreement, or 21.1% of its IP Sector revenue for the period. In the first quarter, Gemstar recorded and reported $5 million in IP Sector revenues, or 22.7% of total IP Sector revenues. In the second and third quarters of 2002, Gemstar recorded and reported $4.5 million in IP Sector revenue under this agreement, which was approximately 20% of each quarter's IP Sector revenue.

98. Yuen and Leung were aware of the relationship between the sale of WGN and Tribune's advertising purchase. Yuen was informed of the structure of the transaction and suggested modifications to the deal as it was being negotiated. Leung received copies of the final transaction documents. Leung also controlled the advertising that Gemstar ran for Tribune so that she could ensure that Gemstar met its quarterly earnings estimates.

99. In Gemstar's periodic filings and press releases, Yuen and Leung failed to disclose that, in fact, the Tribune advertising purchase was related directly to the sale of the WGN distribution rights, that Gemstar had complete discretion over running the advertising, that Gemstar ran the Tribune advertising to meet its quarterly goals, and that the advertising was not sold at fair value. Yuen and Leung knew, or were reckless in not knowing, that the periodic filings and other public statements failed to include material information, and were otherwise false.

100. Gemstar's accounting for this transaction did not comport with GAAP, because the fair value of the advertising was not realizable, verifiable, or objectively determinable. Under GAAP for "multiple element" transactions (*i.e.*, those involving the delivery or performance of multiple products or services), when sufficient evidence of the fair value of an individual element does not exist, revenue is not allocated among the elements until such evidence exists. The IPG advertising revenue associated with the Tribune transaction should have been allocated to the sale of the WGN distribution business and to interest income over the six-year contract term.

101. Yuen and Leung knew, or were reckless in not knowing, that the Tribune revenue was not properly recorded and reported as revenue, and that Gemstar's public statements, including periodic filings and press releases, contained material misstatements and omitted to state material facts concerning the recording and reporting of revenue from Tribune.

102. After Yuen and Leung resigned as Gemstar officers, Gemstar reversed the recognition of $26 million in IPG advertising revenue and allocated it to the sale of the WGN distribution business and interest income.

The Motorola Settlement with Related Advertising Buy

103. Motorola, Inc. ("Motorola") is a Delaware corporation with its principal place of business in Schaumburg, Illinois. In 1992, predecessors of Gemstar and Motorola entered into a license and technical assistance agreement that enabled Motorola to use Gemstar's IPG technology. The original 1992 agreement was between General Instrument Corp. and StarSight Telecast, Inc. Motorola merged with General Instrument in January 2000. Gemstar acquired StarSight in May 1997. (For purposes of this Complaint, the Commission refers only to the successor companies Motorola and Gemstar.)

104. In May 1997, Gemstar commenced an arbitration alleging a breach of the 1992 agreement and misappropriation of technology and trade secrets by Motorola. In November 1998, Gemstar filed a patent infringement suit against Motorola.

105. In the fall of 1999, Gemstar and Motorola commenced negotiations to settle the arbitration and litigation. Yuen was Gemstar's principal negotiator until the July 2000 merger with TV Guide, after which Yuen continued to supervise the negotiations.

106. Gemstar obtained a favorable arbitration award in March 2000. In May 2000, Motorola filed a court action to set aside the award. Gemstar counterclaimed in June 2000.

107. During the course of negotiations, from the fall of 1999 through approximately August 2000, the negotiations did not include any provision for Motorola to purchase advertising from Gemstar. Instead, the parties principally discussed a license for Motorola's use of Gemstar's IPG, a one-time non-

refundable fee, and a payment for units that Gemstar claimed involved the use of Gemstar's proprietary technology.

108. In or after August 2000, Gemstar proposed that a portion of the one-time non-refundable fee could be a prepaid advertising buy from Motorola. Yuen informed persons involved in the negotiation, and Leung, that he wanted to have an advertising component included in any settlement with Motorola. Motorola eventually agreed to include an advertising component. During negotiations, Gemstar took the position that it should have final discretion over timing and placement of any advertising.

109. In or about October, 2000, Motorola and Gemstar reached a settlement whereby Motorola agreed that $17.5 million could be characterized as advertising. The advertising was to run over four years. While Gemstar had to coordinate the timing and placement of the advertising with Motorola, Gemstar retained final discretion as to timing and placement of the advertising.

110. In an October 16, 2000 press release and conference call, and in its 2000 and 2001 Forms 10-K, Gemstar disclosed that it had reached a settlement with Motorola. Yuen participated in preparing the press release and in the conference call announcing the agreement. In the conference call, Gemstar disclosed that Motorola's payment obligations approached approximately $200 million. In its 2000 Form 10-K, Gemstar disclosed that it had received approximately $190 million from Motorola related to the settled arbitration, litigation, and future license fees. Gemstar failed to disclose that a portion of the settlement included $17.5 million in advertising over four years.

111. Gemstar ran all $17.5 million of the Motorola advertising in 2001 and the first quarter of 2002, rather than over four years as provided by the settlement, and recorded and reported all $17.5 million as IP Sector revenue.

112. In the first quarter of 2001, Gemstar included $2.93 million in IP Sector revenues from the Motorola settlement, which was approximately 19.9% of

IP Sector revenues. In the second quarter, Gemstar included $4.5 million in IP Sector revenues, or 21.9%. In the third quarter, Gemstar included $5 million in IP Sector revenues, or 17.1%, and in the fourth quarter included $2 million, or 5.4%. For the year 2001, Gemstar reported $14.43 million in IP Sector revenue under the Motorola settlement, or 14.2% of total IP Sector revenue.

113. In the first quarter of 2002, Gemstar recorded and reported the remaining $3.07 million from Motorola as IP Sector revenue, or 13.9% percent of total IP Sector revenue.

114. Leung determined each quarter the dollar amount of the advertising run by Gemstar under the Motorola agreement. At the end of each quarter, Leung and her staff determined the amount to invoice Motorola for IPG advertising. However, Leung and Yuen represented to KPMG, in management representation letters, that the revenue recognized by Gemstar for IPG advertising had been requested by Motorola.

115. Gemstar's accounting for the Motorola IPG advertising did not comport with GAAP because there was no basis to determine the fair value of the IPG advertising, which is necessary in multiple element arrangements.

116. Yuen and Leung knew, or were reckless in not knowing, that the Motorola revenue was not properly recorded and reported as IP Sector revenue, and that Gemstar's public statements, including periodic filings and press releases, contained material misstatements and omitted to state material facts concerning the recording and reporting of revenue from Motorola.

117. In March 2003, Gemstar restated its financial statements to recognize the $17.5 million as licensing revenue over the ten year term of the agreement, and restated the IP Sector revenues.

<u>FIRST CLAIM FOR RELIEF</u>

FRAUD IN THE OFFER OR SALE OF SECURITIES

Violations of Section 17(a) of the Securities Act

118. The Commission realleges and incorporates by reference ¶¶ 1 through 117 above.

119. Defendants Yuen and Leung, and each of them, by engaging in the conduct described above, directly or indirectly, in the offer or sale of securities by the use of means or instruments of transportation or communication in interstate commerce or by the use of the mails:

a. with scienter, employed devices, schemes, or artifices to defraud;

b. obtained money or property by means of untrue statements of a material fact or by omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

c. engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

120. By engaging in the conduct described above, each of the defendants violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

<u>SECOND CLAIM FOR RELIEF</u>

FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

121. The Commission realleges and incorporates by reference ¶¶ 1 through 117 above.

122. Defendants Yuen and Leung, and each of them, by engaging in the conduct described above, directly or indirectly, in connection with the purchase or

sale of a security, by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, with scienter:

a. employed devices, schemes, or artifices to defraud;

b. made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

123. By engaging in the conduct described above, each of the defendants violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

THIRD CLAIM FOR RELIEF

VIOLATIONS OF COMMISSION PERIODIC REPORTING REQUIREMENTS

Aiding and Abetting Violations of Section 13(a) of the Exchange Act, and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder

124. The Commission realleges and incorporates by reference ¶¶ 1 through 117 above.

125. Gemstar violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, by filing with the Commission materially false and misleading quarterly reports on Form 10-Q for the quarters ended June 30, 2000, September 30, 2000, March 31, 2001, June 30, 2001, September 30, 2001, and March 31, 2002; annual reports on Form 10-K for the fiscal years ended March 31, 2000, December 31, 2000, and December 31, 2001; and current reports on Form 8-K, dated September 25 and 26, 2002.

126. Defendants Yuen and Leung, and each of them, knowingly provided substantial assistance to Gemstar's violation of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.

127. By engaging in the conduct described above and pursuant to Section 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), defendants Yuen and Leung aided and abetted Gemstar's violations, and unless restrained and enjoined will continue to aid and abet violations, of Section 13(a) of the Exchange Act, 15 U.S.C. § 78m(a), and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13.

FOURTH CLAIM FOR RELIEF

RECORD-KEEPING VIOLATIONS

Aiding and Abetting Violations of Section 13(b)(2)(A) of the Exchange Act and Violations of Rule 13b2-1 thereunder

128. The Commission realleges and incorporates by reference ¶¶ 1 through 117 above.

129. Gemstar violated Section 13(b)(2)(A) of the Exchange Act by failing to make or keep books, records and accounts that in reasonable detail accurately and fairly reflected its transactions and disposition of its assets.

130. Defendants Yuen and Leung, and each of them, knowingly provided substantial assistance to Gemstar's violation of Section 13(b)(2)(A) of the Exchange Act.

131. By engaging in the conduct described above and pursuant to Section 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), defendants Yuen and Leung aided and abetted Gemstar's violations, and unless restrained and enjoined will continue to aid and abet violations, of Section 13(b)(2)(A) of the Exchange Act, 15 U.S.C. § 78m(b)(2)(A).

132. By engaging in the conduct described above, defendants Yuen and Leung violated Exchange Act Rule 13b2-1 by, directly or indirectly, falsifying or

causing to be falsified Gemstar's books, records, and accounts subject to Section 13(b)(2)(A) of the Exchange Act. Unless restrained and enjoined, defendants Yuen and Leung will continue to violate Rule 13b2-1, 17 C.F.R. § 240.13b2-1.

FIFTH CLAIM FOR RELIEF

INTERNAL CONTROL VIOLATIONS

Aiding and Abetting Violations of Section 13(b)(2)(B) of the Exchange Act

133. The Commission realleges and incorporates by reference ¶¶ 1 through 117 above.

134. Defendants Yuen and Leung, and each of them, by engaging in the conduct described above, failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that:

a. transactions were executed in accordance with management's general or specific authorization;

b. transactions were recorded as necessary (i) to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles or other criteria applicable to such statements, and to (ii) to maintain accountability for assets;

c. access to assets was permitted only in accordance with management's general or specific authorization; and

d. the recorded accountability for assets was compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any differences.

135. Because of the conduct alleged above, Gemstar violated Section 13(b)(2)(B) of the Exchange Act. Defendants Yuen and Leung knowingly

provided substantial assistance to Gemstar's violation of Section 13(b)(2)(B) of the Exchange Act.

136. By engaging in the conduct described above and pursuant to Section 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), defendants Yuen and Leung aided and abetted Gemstar's violations, and unless restrained and enjoined defendants Yuen and Leung will continue to aid and abet violations, of Section 13(b)(2)(B) of the Exchange Act, 15 U.S.C. § 78m(b)(2)(B).

SIXTH CLAIM FOR RELIEF

INTERNAL CONTROL VIOLATIONS

Violations of Section 13(b)(5) of the Exchange Act

137. The Commission realleges and incorporates by reference ¶¶ 1 through 117 above.

138. By engaging in the conduct described above, defendants Yuen and Leung violated Section 13(b)(5) of the Exchange Act, by circumventing or failing to implement a system of internal accounting controls, or by knowingly falsifying any book, record or account described in Section 13(b)(2) of the Exchange Act. Unless restrained and enjoined, defendants Yuen and Leung will continue to violate Section 13(b)(5) of the Exchange Act, 15 U.S.C. § 78m(b)(5).

SEVENTH CLAIM FOR RELIEF

LYING TO THE AUDITORS

Violations of Exchange Act Rule 13b2-2

139. The Commission realleges and incorporates by reference ¶¶ 1 through 117 above.

140. By engaging in the conduct described above, and in connection with audits or examinations of the financial statements of Gemstar and the preparation and filing of statements and reports required to be filed with the Commission, defendants Yuen and Leung, directly or indirectly, made or caused to be made materially false or misleading statements to accountants and omitted to state, or

caused another person to omit to state to accountants, material facts necessary in order to make statements made to the accountants, in light of the circumstances under which such statements were made, not misleading.

141. By reason of the foregoing, each of the defendants violated, and unless restrained and enjoined will continue to violate, Exchange Act Rule 13b2-2, 17 C.F.R. § 240.13b2-2.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

Issue findings of fact and conclusions of law that defendants Yuen and Leung committed the violations alleged and charged herein.

II.

Issue judgments, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining each defendant and his or her agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the order by personal service or otherwise, and each of them, from violating Sections 17(a) of the Securities Act, 15 U.S.C. § 77q(a), Section 10(b) of the Exchange Act, 15 U.S.C. §§ 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5, Rule 13b2-1 under the Exchange Act, 17 C.F.R. § 240.13b2-1, Section 13(b)(5) of the Exchange Act, 15 U.S.C. § 78m(b)(5), and Rule 13b2-2 under the Exchange Act, 17 C.F.R. § 240.13b2-2, and aiding and abetting violations of Section 13(a) of the Exchange Act, 15 U.S.C. § 78m(a), and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13, Section 13(b)(2)(A) of the Exchange Act, 15 U.S.C. § 78m(b)(2)(A), and Section 13(b)(2)(B) of the Exchange Act, 15 U.S.C. § 78m(b)(2)(B).

III.

Enter an order, pursuant to Section 20(e) of the Securities Act, 15 U.S.C. § 77t(e), and Section 21(d)(2) of the Exchange Act, 15 U.S.C. § 78u(d)(2), permanently prohibiting defendants Yuen and Leung, and each of them, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act, 15 U.S.C. § 78l, or that is required to file reports pursuant to Section 15(d) of the Exchange Act, 15 U.S.C. § 78o(d).

IV.

Order defendants Yuen and Leung to disgorge all ill-gotten gains from their illegal conduct, together with prejudgment interest thereon.

V.

Order defendants Yuen and Leung to pay civil penalties under Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

VI.

Order defendants Yuen and Leung to provide an accounting of their ill-gotten gains.

VII.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VIII.

Grant such other and further relief as this Court may determine to be just and necessary.

DATED: June 19, 2003

s/
Andrew J. Dunbar

Attorney for Plaintiff
Securities and Exchange Commission