

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ALCATEL USA RESOURCES, INC.)	
)	
<i>Plaintiff,</i>)	
)	CIVIL ACTION NO. 6:06-CV-500
vs.)	
)	DEMAND FOR JURY TRIAL
MICROSOFT CORPORATION)	
)	
<i>Defendant</i>)	
)	

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff Alcatel USA Resources, Inc. (“Alcatel”) files this complaint against Microsoft Corporation (“Microsoft”) for patent infringement under 35 U.S.C. § 271.

I. THE PARTIES

1. Plaintiff Alcatel is a Delaware corporation with its principal place of business at 3400 W. Plano Parkway, Plano, Texas, 75075.

2. Defendant Microsoft is a Delaware Corporation with its principal place of business at One Microsoft Way, Redmond, WA 98052. Microsoft is qualified to do business in the State of Texas, Filing No. 10404606, and has appointed Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701, as its agent for service of process.

II. JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Microsoft. Microsoft has conducted and does conduct business within the State of Texas. Microsoft, directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises (including the provision of an interactive web page) its products in the United States, the State of Texas, and the Eastern District of Texas. Microsoft has purposefully and voluntarily placed one or more of its infringing products into the stream of commerce with the expectation that they will be purchased by consumers in the Eastern District of Texas. These infringing products have been and continue to be purchased by consumers in the Eastern District of Texas. Microsoft has committed acts of patent infringement within the State of Texas, and more particularly, within the Eastern District of Texas.

5. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§ 1391(c) and 1400(b).

III. PATENT INFRINGEMENT

6. Alcatel incorporates by reference paragraphs 1 through 5 as if fully set forth herein.

7. United States Patent No. 6,823,390, entitled “Method Of Setting Up Data Communication With A Communication Means And Furthermore Program Modules And Means Therefor,” (the “’390 Patent”) was duly and legally issued after a full and fair examination on November 23, 2004. Alcatel is the assignee of all rights, title, and interest in the ’390 patent. A true and correct copy of the ’390 Patent is attached hereto as Exhibit A.

8. United States Patent No. 6,112,226, entitled “Method And Apparatus For Concurrently Encoding And Tagging Digital Information For Allowing Non-Sequential Access During Playback,” (the “’226 Patent”) was duly and legally issued after a full and fair

examination on August 29, 2000,. Alcatel is entitled to sue for infringement, including past infringement, of the '226 patent. A true and correct copy of the '226 Patent is attached hereto as Exhibit B.

9. United States Patent No. 5,864,682, entitled "Method and Apparatus for Frame Accurate Access of Digital Audio-Visual Information," (the "'682 Patent") was duly and legally issued after a full and fair examination on January 26, 1999. Alcatel is entitled to sue for infringement, including past infringement, of the '682 patent. A true and correct copy of the '682 Patent is attached hereto as Exhibit C.

10. United States Patent No. 5,659,539, entitled "Method and Apparatus for Frame Accurate Access of Digital Audio-Visual Information," (the "'539 Patent") was duly and legally issued after a full and fair examination on August 19, 1997. Alcatel is entitled to sue for infringement, including past infringement, of the '539 patent. A true and correct copy of the '539 Patent is attached hereto as Exhibit D.

11. The '390, '226, '682, and '539 Patents are collectively referred to herein as the "Patents-in-Suit".

12. Microsoft has infringed and/or continues to infringe each of the Patents-in-Suit. Microsoft is liable for direct infringement and/or indirect infringement by way of inducement or contributory infringement of each of the Patents-in-Suit under 35 U.S.C. § 271.

13. Microsoft provides components from the United States to be used overseas in a manner infringing the Patents-in-Suit.

14. Microsoft's acts of infringement have caused damage to Alcatel. Alcatel is entitled to recover from Microsoft the damages sustained by Alcatel as a result of Microsoft's wrongful acts in an amount subject to proof at trial.

15. Microsoft will continue to infringe each of the Patents-in-Suit unless enjoined by this Court. As a result of the infringing conduct of Microsoft, Alcatel has suffered, and will continue to suffer, irreparable harm for which there is no adequate remedy at law. Accordingly, Alcatel is entitled to permanent injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

16. Prior to the filing of the present lawsuit, Alcatel provided Microsoft with actual notice of infringement. Alternatively, this Complaint provides Microsoft with actual notice of infringement.

17. Microsoft's past infringement and/or continuing infringement has been deliberate and willful. This case is therefore an exceptional case, which warrants an award of treble damages and attorneys' fees to Alcatel in accordance with 35 U.S.C. § 285.

IV. DEMAND FOR JURY TRIAL

18. Pursuant to Federal Rule of Civil Procedure 38(b), Alcatel hereby demands a jury trial for all issues in this case that properly are subject to a jury trial.

V. PRAYER FOR RELIEF

WHEREFORE, Alcatel prays for the following relief:

- a. A judgment that Microsoft has infringed each of the Patents-in-Suit under 35 U.S.C. § 271;
- b. A judgment and order requiring Microsoft to pay Alcatel damages under 35 U.S.C. § 284, including treble damages for willful infringement as provided by 35 U.S.C. § 284;
- c. A judgment and order requiring Microsoft to pay Alcatel pre-judgment and post-judgment interest on the damages award;

- d. A judgment and order finding this to be an exception case and requiring Microsoft to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285;
- e. A judgment and order that Microsoft, its officers, agents, servants, directors, and employees, subsidiaries, parents, attorneys, and those persons in active concert, on behalf of, in joint venture, or in participation with Microsoft, be permanently enjoined from further infringing each of the Patents-in-Suit; and
- f. Such other and further relief as the Court deems just and equitable.

Dated: November 17, 2006

Respectfully submitted,

By: /s/ Scott F. Partridge with permission by
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