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MASTEROBJECTS, INC.

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

MASTEROBJECTS, INC.,	Case No. CV 11-2402 EMC
Plaintiff,	
v.	**ORIGINAL COMPLAINT AND DEMAND FOR JURY TRIAL**
MICROSOFT CORP.,	
Defendant.	

Plaintiff MasterObjects, Inc. ("MasterObjects" or "Plaintiff") hereby files its complaint against defendant Microsoft Corporation ("Microsoft" or "Defendant"), for patent infringement. For its complaint, Plaintiff alleges, on personal knowledge as to its own acts and on information and belief as to all other matters, as follows:

PARTIES

1.   MasterObjects is a corporation organized under the laws of the State of Delaware, with its principal place of business in San Francisco, California, prior to January 1, 2010, and now Maarssen, Netherlands.

2.   Microsoft is a corporation organized under the laws of the State of Delaware, with its principal place of business in Redmond, Washington.

JURISDICTION AND VENUE

3.   This complaint asserts a cause of action for patent infringement under the Patent Act, 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter by virtue of 28 U.S.C. § 1338(a). Venue is proper in this Court by virtue of 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400(b), in that Microsoft may be found in this district, has committed acts of infringement in this district, and a substantial part of the events giving rise to the claim occurred in this district.

4.   This Court has personal jurisdiction over Microsoft because Microsoft has a place of business in, and provides infringing products and services in, the Northern District of California.

INTRADISTRICT ASSIGNMENT

5.   Pursuant to Civil LR 3-2(c), this case should be subject to district-wide assignment because it is an Intellectual Property Action.

I. STATEMENT OF FACTS.

A. The Plaintiff MasterObjects and its Instant Search Technology.

6. From the earliest days of Internet search, the search process has been hampered by what is known as the "request-response loop." The user would type a query into a static input field, click a "submit" or "search" button, wait for the query to be sent to a remote database, wait for the result set to be returned to the server, wait for the server to build an HTML page, wait for the page to load into the browser, and then wait for the client window to be redrawn so that the result set could be viewed.

7. Inherent in the "request-response loop" is the pragmatic reality that, if the result set did not match user expectations, the entire process had to be repeated, recursively, until the results satisfied the user.

8. In 2000, Mark Smit, the founder of Plaintiff MasterObjects, invented a novel approach to search, an approach that solved the "request-response loop" problem. Smit envisioned a system where a dynamic and intelligent search field would immediately begin submitting a search query as soon as the user began typing characters into the query field. Using asynchronous communications technology, as the user typed more characters, the results in the drop-down box would change dynamically, becoming increasingly relevant as the string of characters lengthened. In essence, search would become effective and granular at the *character* level, not the block request *submit* level. More, this would happen real-time, as the user typed in characters, and not be dependent on hitting a "search" or "submit button."

9. MasterObjects filed its first patent application in August 2001, "System and Method for Asynchronous Client Server Session Communication."

10.   MasterObjects filed its second patent application in 2004, as a continuation-in-part of the 2001 filing. This second application, titled "System and Method for Utilizing Asynchronous Client Server Communications Objects," issued as U.S. Patent No. 7,752,326 in July 2010 ("'326" or "instant search").

11.   The '326 Abstract summarizes the invention as follows:

> A session-based client-server asynchronous information search and retrieval system for sending character-by-character or multi-character strings of data to an intelligent server, that can be configured to immediately analyze the lengthening string and return to the client increasingly appropriate search information. Embodiments include integration within an Internet, web or other online environment, including applications for use in interactive database searching, data entry, online searching, online purchasing, music purchasing, people-searching, and other applications. In some implementations the system may be used to provide dynamically focused suggestions, auto-completed text, or other input-related assistance, to the user.

12.   MasterObjects makes and sells products that practice the '326 patent, and MasterObjects has been selling these products from approximately 2004 forward. MasterObjects remains a going concern today, selling products that practice its patented technology.

13.   By May 2008, Microsoft had been notified in writing of the MasterObjects technology, and its pursuit of patent protection for its inventions. Since that time, Microsoft's continuing manufacture, use and sale of the infringing products and services identified below has been in deliberate disregard of a known risk that MasterObjects had a protective patent covering those technologies.

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B.   The Infringing Microsoft Products.

14.   Microsoft products and services infringe the claims of MasterObjects' '326 patent, as set out below.

Microsoft Bing

15.   Bing, formerly known as Live Search, Windows Live Search, and MSN Search, is Microsoft's flagship Internet search engine, available at www.bing.com.   Visitors to the site are presented with a large field for entry of text corresponding to a desired search term. Microsoft Bing technology drives other search engine sites as well, including Yahoo.com.

16.   On information and belief, Microsoft enhanced the Internet search capabilities of its search engine offering in 2006, with the introduction of Suggestions, a feature that suggests to the user possible search queries as the user types. Prior to the implementation of this feature, users of the Microsoft search engine were required to formulate their own search query, type it in, click a "search" button, and wait for the search results to be delivered as a series of web pages, and then, if the search results were not what was desired, refine the search query and repeat the process again.

17.   Using the Suggestions feature, as a visitor to Microsoft's search site begins typing individual characters in the search field, Microsoft's enhanced search system anticipates the user's query, and asynchronously suggests complete queries that match or enhance the partial query being typed by retrieving from Microsoft's servers a set of suggested queries. As the user types additional characters in the search box, the client asynchronously communicates with the server, and the server returns a more focused and/or predictive set of potentially matching queries to the user. This process continues as the user continues to type characters, until a query is selected and search results are retrieved.

18.   These enhancements provide numerous benefits to Microsoft and its

customers, including speeding the search process, lessening user typing, catching mistakes

mid-query, and otherwise increasing user efficiency.

19.   Beginning at least in March 2011, Microsoft has been providing previews of a

new version of Bing for HTML5-compatible browsers. Unlike previous versions of

Microsoft's search engine offering, this new version of Bing not only provides suggested

search queries as a user types, but also provides "instant" search results: using asynchronous

communication technology, search results are sent to the user as the user types, character-by-

character. Search results are changed based on the additional characters inputted by the user,

that is, as the query character string lengthens.

Internet Explorer, Windows Phone, Browser Toolbars, and Mobile Applications

20.   Microsoft has now extended its enhanced search capabilities beyond the

Bing.com website, via its Internet Explorer browser, its Windows Phone mobile phone

software, browser toolbars for other browsers, and mobile Bing applications for the iOS and

Android software platforms. Each of these software applications provides a more focused

and/or predictive set of potentially matching queries to the user as the user types, utilizing

asynchronous communication technology to retrieve these queries from a server location.

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COUNT I

PATENT INTRINGEMENT
(The Instant Search Patent)

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21.   On July 6, 2010, United States Patent No. 7,752,326 entitled "System and

Method For Utilizing Asynchronous Client Server Communications Objects" was duly

and legally issued. A true and correct copy of the '326 patent is attached as Exhibit A.

22.   Mark Smit is the inventor of the '326 instant search patent. The '326

patent has been assigned to Plaintiff. Plaintiff MasterObjects is the sole legal and rightful owner of the instant search patent.

23.   Microsoft makes, uses, and sells products that infringe the instant search patent, as alleged above in paragraphs 14 through 20 and incorporated here by reference. This conduct constitutes infringement under 35 U.S.C. § 271(a).

24.   In addition, Microsoft has infringed and is still infringing the instant search patent in this country through, *inter alia*, its active inducement of others to make, use, and/or sell the systems, products and methods claimed in one or more claims of the patents. Microsoft supplies infringing products and technology to others, including Yahoo. Microsoft's customers directly infringe the instant search patent, and were induced to do so by Microsoft. Microsoft knows of the instant search patent and its contents, and has deliberately disregarded a known risk that MasterObjects had obtained an instant search patent. Microsoft actively and knowingly encouraged, aided and abetted its customers to directly infringe the instant search patent. Microsoft offered its infringing products for sale or distribution with the intent of promoting their use to infringe. Microsoft intentionally encouraged its customers to infringe the instant search patent by advertising its products for infringing uses, and instructing its customers how to use the products to engage in infringement. Microsoft had specific intent to encourage customers to infringe the instant search patent, knew of or deliberately disregarded a known risk that MasterObjects had obtained an instant search patent, and knew or should have known that its actions would encourage customers to actually infringe the instant search patent. This conduct constitutes infringement under 35 U.S.C. § 271(b).

25.   In addition, Microsoft has infringed and is still infringing the instant search patent in this country through, *inter alia*, providing and selling goods and services including

the infringing products and services designed for use in practicing one or more claims of the

instant search patent, where the goods and services constitute a material part of the invention

and are not staple articles of commerce, and which have no use other than infringing one or

more claims of the instant search patent. Microsoft's customers commit the entire act of

direct infringement. Microsoft has committed these acts with knowledge that the goods and

services it provides are specially made for use in a manner that directly infringes the instant

search patent. This conduct constitutes infringement under 35 U.S.C. § 271(c).

26. As a result of the infringement by Microsoft, Plaintiff has been damaged, and

will continue to be damaged, until this Defendant is enjoined from further acts of

infringement.

27. Microsoft will continue to infringe unless enjoined by this Court. Plaintiff

faces real, substantial and irreparable damage and injury of a continuing nature from

infringement for which Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for entry of judgment:

A. that the Patents-in-Suit are valid and enforceable;

B. that Defendant has infringed one or more claims of the Patents-in-Suit;

C. that Defendant account for and pay to Plaintiff all damages caused by the

infringement of the Patents-in-Suit, which by statute can be no less than a reasonable royalty;

D. that this Court issue a preliminary and final injunction enjoining Microsoft, its

officers, agents, servants, employees and attorneys, and any other person in active concert or

participation with them, from continuing the acts herein complained of, and more

particularly, that Microsoft and such other persons be permanently enjoined and restrained

from further infringing the instant search patent;

E.   that Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to them by reason of Defendant's infringement of the Patents-in-Suit;

F.   that this Court require Defendant to file with this Court, within thirty (30) days after entry of final judgment, a written statement under oath setting forth in detail the manner in which Defendant has complied with the injunction;

G.   that this be adjudged an exceptional case and the Plaintiff be awarded its attorney's fees in this action pursuant to 35 U.S.C. § 285;

H.   that this Court award Plaintiff its costs and disbursements in this civil action, including reasonable attorney's fees; and

I.   that Plaintiff be granted such other and further relief as the Court may deem just and proper under the current circumstances.

Dated: May 17, 2011   Respectfully submitted,

                                        __/s/ Spencer Hosie_____
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DEMAND FOR JURY TRIAL

Plaintiff, by its undersigned attorneys, demands a trial by jury on all issues so triable.

Dated: May 17, 2011   Respectfully submitted,

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