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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION MICROSOFT CORPORATION, Case No. 5:15-cv-05836-EJD ORDER DENYING COREL'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE DEFENSE OF COREL CORPORATION, et al., **EXPRESS LICENSE** Defendants. Re: Dkt. Nos. 49 Plaintiff Microsoft Corp. sued Defendants Corel Corp. and Corel Inc. (together, "Corel") for infringement of multiple software patents. Before the Court is Corel's partial motion for summary judgment on the defense of express license to Microsoft's claim that Corel infringed U.S. Patent No. 5,510,980 (the "'980 patent") under 35 U.S.C. § 271. Dkt. No. 49. Corel's motion

I. BACKGROUND

will be DENIED.

Plaintiff,

v.

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Case No.: <u>5:15-cv-05836-EJD</u>

ORDER DENYING COREL'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE **DEFENSE OF EXPRESS LICENSE**

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B. The Utah Case

In 2015, Corel Software, LLC sued Microsoft for patent infringement in Utah. Corel Software, LLC. v. Microsoft Corp., No. 2:15-cv-00528-JNP-PWM (D. Utah July 27, 2015). Corel Software, LLC is a separate legal entity from the two defendants in this case—Corel Corp. and Corel Inc.—and . MSJ at 8. However, all three entities—Corel Corp., Corel Inc., and Corel Software, LLC—are owned by Vector Capital, a private-equity firm. Id. Vector Capital acquired Corel Corp. and Corel Inc. in 2003. Corel's Reply in Support of Motion for Partial Summary Judgment on Defense of Express License ("Reply") at 2, Dkt. No. 67.

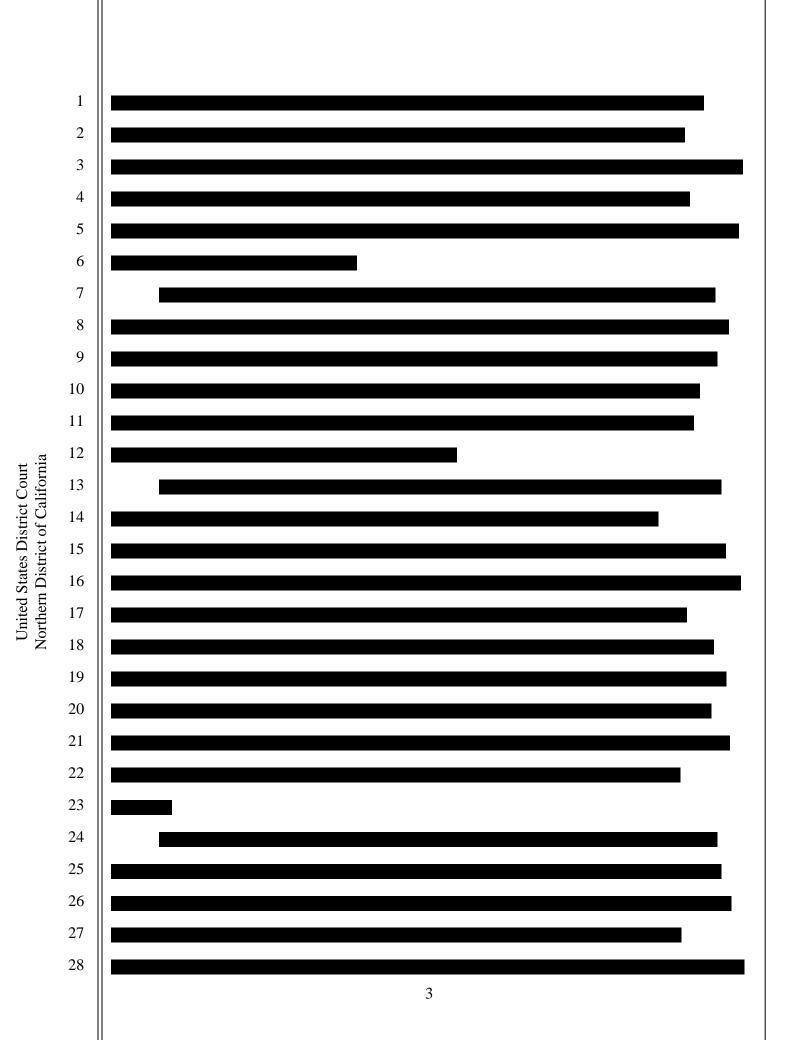
C. This Case

Microsoft filed this case on December 19, 2015, alleging that Corel infringed nine patents relating to graphical user interfaces in software applications. Complaint ¶¶ 1–2, Dkt. No. 1. On May 23, 2016, Corel moved to amend its answer to add a defense of express license to Microsoft's claim that Corel infringed the '980 patent. Dkt. No. 47. On May 23, Corel moved for summary judgment on this defense. Dkt. No. 49.

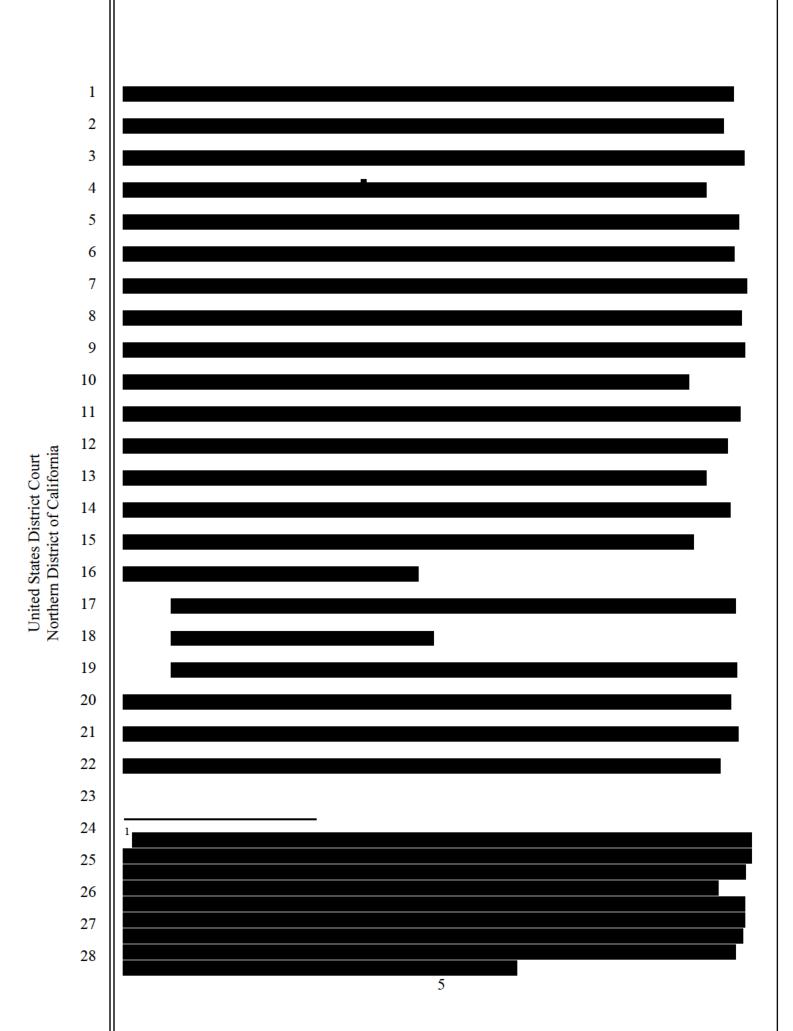
II. LEGAL STANDARD

"Summary judgment is proper where no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law." Samuels v. Holland American Line— USA Inc., 656 F.3d 948, 952 (9th Cir. 2011) (citing Fed. R. Civ. P. 56(a)). The Court "must draw all reasonable inferences in favor of the nonmoving party." Id. "The central issue is 'whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so onesided that one party must prevail as a matter of law." Id. (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251–52 (1986)).

III. DISCUSSION



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7	C. Microsoft's Request for Further Discovery
8	Microsoft requested permission to conduct "more discovery into the details of Vector
9	Capital's acquisition of Corel and Corel's corporate structure" to gather evidence in support of its
10	argument that
11	In light of Microsoft's recently submitted evidence ² and the discussion
12	above, the Court denies Microsoft's request as moot.
13	IV. CONCLUSION
14	The Court finds that
15	Corel's motion for partial
16	summary judgment is DENIED.
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18	IT IS SO ORDERED.
19	Dated: January 12, 2017
20	Ell () Wark
21	EDWARD J. DAVILA United States District Judge
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25	² On December 30, 2016, Microsoft moved for leave to submit recently acquired evidence regarding Corel's MSJ, Dkt. No. 143, Microsoft's new evidence consists of deposition testimony

² On December 30, 2016, Microsoft moved for leave to submit recently acquired evidence regarding Corel's MSJ. Dkt. No. 143. Microsoft's new evidence consists of deposition testimony by Corel's Rule 30(b)(6) representative and Chief Financial Officer; a managing director of Vector Capital who is also a member of Corel's board; and Vector Capital's Vice President for Tax. The testimony contains information about Corel's corporate structure and Vector Capital's involvement. On January 9, 2017, Corel moved for leave to submit recently acquired rebuttal evidence consisting of Corel Corp.'s SEC Form 10-K statements for fiscal years 2006, 2007, and 2008. Dkt. No. 149.