# **EXHIBIT V**

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8	IINITED STAT	rec di	ISTRICT COLIRT		
9	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE				
10		I DEA.			
11	MICROSOFT CORPORATION, a Washington Corporation,	)	Case No:		
12	The state of	)			
13	Plaintiff,	)	COMPLAINT FOR PATENT INFRINGEMENT		
14	V.	)	JURY DEMAND		
15	Motorola, Inc.,	)			
16	Defendant.	)			
17		)			
18					
19	Plaintiff Microsoft Corporation ("Mic	crosoft"	) for its Complaint for Patent Infringemen		
20	against Motorola, Inc. ("Motorola") alleges as follows:				
21	<u>PARTIES</u>				
22	Plaintiff Microsoft is a Washington corporation having its principal place of				
23	business at One Microsoft Way, Redmond, Washington 98052.				
24	2. Upon information and belief, Defendant Motorola is a corporation organized				
25	under the laws of Delaware with its principal place of business at 1303 East Algonquin Road,				
26	Schaumburg, Illinois 60196. On information and belief, Motorola is engaged in the design,				
27	manufacture, importation into the United States, and sale after importation of smartphones and				
28					
	COMPLAINT – 1				

associated software applications and services. Motorola markets and sells these products worldwide through its channel business partners, telecom service providers, and various retail companies, both at retail stores and through company websites.

#### **JURISDICTION AND VENUE**

- 3. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.
- 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
- 5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391(d), and 1400(b). On information and belief, Defendant is subject to this Court's personal jurisdiction, consistent with the principles of due process and the Washington Long Arm Statute, because Defendant maintains offices and facilities in the Western District of Washington, offer their products for sale in the Western District of Washington, have transacted business in this District, and/or have committed and/or induced acts of patent infringement in this District.

# PATENT INFRINGEMENT COUNTS

- 6. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,579,517 ("the '517 patent"), U.S. Patent No. 5,758,352 ("the '352 patent"), U.S. Patent No. 6,621,746 ("the '746 patent"), U.S. Patent No. 6,826,762 ("the '762 patent"), U.S. Patent No. 6,909,910 ("the '910 patent"), U.S. Patent No. 7,644,376 ("the '376 patent"), U.S. Patent No. 5,664,133 ("the '133 patent"), U.S. Patent No. 6,578,054 ("the '054 patent"), and U.S. Patent No. 6,370,566 ("the '566 patent") (collectively, "the Microsoft Patents"), which the Defendant is infringing and/or inducing others to infringe by making, using, offering to sell or selling in the United States, or importing into the United States, products or processes that practice inventions claimed in the Microsoft Patents.
- 7. The Defendant has profited through infringement of the Microsoft Patents. As a result of the Defendant's unlawful infringement of the Microsoft Patents, Microsoft has suffered

and will continue to suffer damage. Microsoft is entitled to recover from the Defendant the damages suffered by Microsoft as a result of the Defendant's unlawful acts.

- 8. Upon information and belief, Defendant's infringement of one or more of the Microsoft Patents is willful and deliberate, entitling Microsoft to enhanced damages and reasonable attorney fees and costs.
- 9. Upon information and belief, the Defendant intends to continue their unlawful infringing activity, and Microsoft continues to and will continue to suffer irreparable harm—for which there is no adequate remedy at law—from such unlawful infringing activity unless the Defendant is enjoined by this Court.

#### **COUNT I**

## **INFRINGEMENT OF U.S. PATENT NO. 5,579,517**

- 10. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-9.
- 11. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,579,517 ("the '517 patent"), entitled "Common Name Space for Long and Short File Names," duly and properly issued by the U.S. Patent and Trademark Office on November 26, 1996 (a reexamination certificate for the '517 issued on November 28, 2006). A copy of the '517 patent is attached as Exhibit A.
- 12. The Defendant has been and/or is directly infringing and/or inducing infringement of and/or is contributorily infringing the '517 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '517 patent, including, by way of example and not limitation, the Motorola Droid 2.

# **COUNT II**

#### **INFRINGEMENT OF U.S. PATENT NO. 5,758,352**

13. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-12.

14. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,758,352 ("the '352 patent"), entitled "Common Name Space for Long and Short File Names," duly and properly issued by the U.S. Patent and Trademark Office on November 26, 1996 (a reexamination certificate was issued for the '352 patent on October 10, 2006). A copy of the '352 patent is attached as Exhibit B.

15. The Defendant has been and/or is directly infringing and/or inducing infringement of and/or is contributorily infringing the '352 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '352 patent, including, by way of example and not limitation, the Motorola Droid 2.

## **COUNT III**

## **INFRINGEMENT OF U.S. PATENT NO. 6,621,746**

- 16. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-15.
- 17. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,621,746 ("the '746 patent"), entitled "Monitoring Entropic Conditions of a Flash Memory Device as an Indicator for Invoking Erasure Operations," duly and properly issued by the U.S. Patent and Trademark Office on September 16, 2003. A copy of the '746 patent is attached as Exhibit C.
- 18. The Defendant has been and/or is directly infringing and/or inducing infringement of and/or is contributorily infringing the '746 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '746 patent, including, by way of example and not limitation, the Motorola Charm.

# **COUNT IV**

#### **INFRINGEMENT OF U.S. PATENT NO. 6,826,762**

19. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-18.

- 20. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,826,762 ("the '762 patent"), entitled "Radio Interface Layer in a Cell Phone with a Set of APIs Having a Hardware-Independent Proxy Layer and a Hardware-Specific Driver Layer," duly and properly issued by the U.S. Patent and Trademark Office on November 30, 2004. A copy of the '762 patent is attached as Exhibit D.
- 21. The Defendant has been and/or is directly infringing and/or inducing infringement of and/or is contributorily infringing the '762 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '762 patent, including, by way of example and not limitation, the Motorola Droid 2.

## **COUNT V**

## INFRINGEMENT OF U.S. PATENT NO. 6,909,910

- 22. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-21.
- 23. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,909,910 ("the '910 patent"), entitled "Method and System for Managing Changes to a Contact Database," duly and properly issued by the U.S. Patent and Trademark Office on June 21, 2005. A copy of the '910 patent is attached as Exhibit E.
- 24. The Defendant has been and/or is directly infringing and/or inducing infringement of and/or is contributorily infringing the '910 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '910 patent, including, by way of example and not limitation, the Motorola Droid 2.

# **COUNT VI**

## **INFRINGEMENT OF U.S. PATENT NO. 7,644,376**

25. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-24.

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- 26. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 7,644,376 ("the '376 patent"), entitled "Flexible Architecture for Notifying Applications of State Changes," duly and properly issued by the U.S. Patent and Trademark Office on January 5, 2010. A copy of the '376 patent is attached as Exhibit F.
- 27. The Defendant has been and/or is directly infringing and/or inducing infringement of and/or is contributorily infringing the '376 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '376 patent, including, by way of example and not limitation, the Motorola Droid 2.

## **COUNT VII**

## **INFRINGEMENT OF U.S. PATENT NO. 5,664,133**

- 28. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-27.
- 29. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,664,133 ("the '133 patent"), entitled "Context Sensitive Menu System/Menu Behavior," duly and properly issued by the U.S. Patent and Trademark Office on September 2, 1997. A copy of the '133 patent is attached as Exhibit G.
- 30. The Defendant has been and/or is directly infringing and/or inducing infringement of and/or is contributorily infringing the '133 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '133 patent, including, by way of example and not limitation, the Motorola Droid 2.

#### **COUNT VIII**

## **INFRINGEMENT OF U.S. PATENT NO. 6,578,054**

31. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-30.

	32.	Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,578,054		
("the '	054 pat	ent"), entitled "Method and System for Supporting Off-line Mode of Operation and		
Synchronization Using Resource State Information," duly and properly issued by the U.S. Patent				
and Trademark Office on June 10, 2003. A copy of the '054 patent is attached as Exhibit H.				
	33	The Defendant has been and/or is directly infringing and/or inducing infringemen		

33. The Defendant has been and/or is directly infringing and/or inducing infringement of and/or is contributorily infringing the '054 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '054 patent, including, by way of example and not limitation, the Motorola Droid 2.

#### **COUNT IX**

## **INFRINGEMENT OF U.S. PATENT NO. 6,370,566**

- 34. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-33.
- 35. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,370,566 ("the '566 patent"), entitled "Generating Meeting Requests and Group Scheduling from a Mobile Device," duly and properly issued by the U.S. Patent and Trademark Office on April 9, 2002. A copy of the '566 patent is attached as Exhibit I.
- 36. The Defendant has been and/or is directly infringing and/or inducing infringement of and/or is contributorily infringing the '566 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by one or more claims of the '566 patent, including, by way of example and not limitation, the Motorola Droid 2.

#### **DEMAND FOR JURY TRIAL**

37. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Microsoft respectfully requests a trial by jury on all issues properly triable by jury.

#### **PRAYER FOR RELIEF**

WHEREFORE, Microsoft prays for relief as follows:

- A. For a judgment declaring that Defendant has infringed each of the Microsoft Patents;
- B. For a judgment awarding Microsoft compensatory damages as a result of Defendant's infringement of the Microsoft Patents, together with interest and costs, and in no event less than a reasonable royalty;
- C. For a judgment declaring that Defendant's infringement of Microsoft Patents has been willful and deliberate;
- D. For a judgment awarding Microsoft treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendant's willful and deliberate infringement of the Microsoft Patents;
- E. For a judgment declaring that this case is exceptional and awarding Microsoft its expenses, costs, and attorneys fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;
- F. For a grant of a permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendant from further acts of infringement; and
  - G. For such other and further relief as the Court deems just and proper.

1 Dated: October 1, 2010 2 s/David E. Killough 3 David E. Killough 4 5 6 Of counsel: 7 T. ANDREW CULBERT (SBN 35925) andycu@microsoft.com 8 DAVID E. KILLOUGH (SBN 40185) davkill@microsoft.com 9 MICROSOFT CORPORATION 1 Microsoft Way 10 Redmond, Washington 98052 Telephone: 425-882-8080 11 Facsimile: 425-869-1327 12 DAVID T. PRITIKIN dpritikin@sidley.com 13 RICHARD A. CEDEROTH rcederoth@sidley.com 14 DOUGLAS I. LEWIS dilewis@sidley.com 15 JOHN W. MCBRIDE jwmcbride@sidley.com 16 SIDLEY AUSTIN LLP One South Dearborn 17 Chicago, IL 60603 Telephone: 18 312-853-7000 312-853-7036 Facsimile: 19 BRIAN R. NESTER 20 bnester@sidley.com KEVIN C. WHEELER 21 kwheeler@sidley.com 22 SIDLEY AUSTIN LLP 1501 K Street, NW 23 Washington, DC 20005 Telephone: 202-736-8000 24 Facsimile: 202-736-8711 25 Counsel for Plaintiff Microsoft Corp. 26 27 28 COMPLAINT - 9