

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

ANASCAPE, LTD.	§	
	§	Hon. Ronald Clark
Plaintiff,	§	
	§	
v.	§	Civil Action No. 9:06-CV-00158-RC
	§	
MICROSOFT CORPORATION, and NINTENDO OF AMERICA, INC.,	§	JURY TRIAL DEMANDED
	§	
Defendants.	§	

**DEFENDANT MICROSOFT CORPORATION'S ANSWER,  
DEFENSES, AND COUNTERCLAIMS TO PLAINTIFF'S COMPLAINT**

Defendant Microsoft Corporation (“Microsoft”) submits this Answer in response to the Complaint filed in this action by Anascape, Ltd. (“Plaintiff”). For its Answer, Microsoft states as follows:

1. Microsoft is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Complaint, and as such denies the same.
2. Microsoft denies that it is a corporation organized and existing under the laws of Delaware. Microsoft also denies that it manufactures for sale video game consoles and video game controllers. Microsoft admits the remaining allegations of paragraph 2 of the Complaint.
3. Microsoft is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Complaint, and as such denies the same.
4. Microsoft admits that Plaintiff’s Complaint refers to Microsoft and Defendant Nintendo of America, Inc. (“Nintendo”) collectively as “Defendants.”
5. Microsoft admits that Plaintiff’s action purports to be one for alleged patent infringement arising under the cited patent laws of the United States.

6. Microsoft admits, for purposes of this action only, that it is subject to venue in the Eastern District of Texas.

7. Microsoft admits, for purposes of this action only, that it has done business in the State of Texas, and that this Court has personal jurisdiction over Microsoft. Microsoft is without information or knowledge sufficient to form a belief as to the truth of the allegations against Nintendo in paragraph 7 of the Complaint, and as such denies the same. Microsoft denies any and all remaining allegations of paragraph 7, and specifically denies that it has infringed or now infringes the patents asserted against Microsoft in the Complaint.

8. Microsoft incorporates by reference its responses to paragraphs 1-7 as if fully set forth herein.

9. Microsoft admits that Exhibit A of the Complaint, on its face, purports to be a copy of U.S. Patent No. 5,999,084 (“the ‘084 patent”), which is titled “Variable-Conductance Sensor” and lists Brad A. Armstrong as the named inventor. Microsoft denies that the ‘084 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 9 of the Complaint, and as such denies the same.

10. Microsoft admits that Exhibit B of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,102,802 (“the ‘802 patent”), which is titled “Game Controller with Analog Pressure Sensor(s)” and lists Brad A. Armstrong as the named inventor. Microsoft denies that the ‘802 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 10 of the Complaint, and as such denies the same.

11. Microsoft admits that Exhibit C of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,135,886 (“the ‘886 patent”), which is titled “Variable-Conductance Sensor with Elastomeric Dome-Cap” and lists Brad A. Armstrong as the named inventor. Microsoft denies that the ‘886 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 11 of the Complaint, and as such denies the same.

12. Microsoft admits that Exhibit D of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,208,271 (“the ‘271 patent”), which is titled “Remote Controller with Analog Button(s)” and lists Brad A. Armstrong as the named inventor. Microsoft denies that the ‘271 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 12 of the Complaint, and as such denies the same.

13. Microsoft admits that Exhibit E of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,222,525 (“the ‘525 patent”), which is titled “Image Controllers with Sheet Connected Sensors” and lists Brad A. Armstrong as the named inventor. Microsoft denies that the ‘525 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 13 of the Complaint, and as such denies the same.

14. Microsoft admits that Exhibit F of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,343,991 (“the ‘991 patent”), which is titled “Game Controller with Analog Pressure Sensor” and lists Brad A. Armstrong as the named inventor. Microsoft denies that the ‘991 patent was duly and legally issued. Microsoft is without knowledge or information

sufficient to form a belief as to the truth of any remaining allegations of paragraph 14 of the Complaint, and as such denies the same.

15. Microsoft admits that Exhibit G of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,344,791 (“the ‘791 patent”), which is titled “Variable Sensor with Tactile Feedback” and lists Brad A. Armstrong as the named inventor. Microsoft denies that the ‘791 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 15 of the Complaint, and as such denies the same.

16. Microsoft admits that Exhibit H of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,347,997 (“the ‘997 patent”), which is titled “Analog Controls Housed with Electronic Displays” and lists Brad A. Armstrong as the named inventor. Microsoft denies that the ‘997 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 16 of the Complaint, and as such denies the same.

17. Microsoft admits that Exhibit I of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,351,205 (“the ‘205 patent”), which is titled “Variable-Conductance Sensor” and lists Brad A. Armstrong as the named inventor. Microsoft denies that the ‘205 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 17 of the Complaint, and as such denies the same.

18. Microsoft admits that Exhibit J of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,400,303 (“the ‘303 patent”), which is titled “Remote Controller with Analog Pressure Sensor (s)” and lists Brad A. Armstrong as the named inventor. Microsoft

denies that the '303 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 18 of the Complaint, and as such denies the same.

19. Microsoft admits that Exhibit K of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,563,415 ("the '415 patent"), which is titled "Analog Sensor(s) with Snap-Through Tactile Feedback" and lists Brad A. Armstrong as the named inventor. Microsoft denies that the '415 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 19 of the Complaint, and as such denies the same.

20. Microsoft admits that Exhibit L of the Complaint, on its face, purports to be a copy of U.S. Patent No. 6,906,700 ("the '700 patent"), which is titled "3D Controller with Vibration" and lists Brad A. Armstrong as the named inventor. Microsoft denies that the '700 patent was duly and legally issued. Microsoft is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of paragraph 19 of the Complaint, and as such denies the same.

21. Microsoft admits that Plaintiff's Complaint refers to the '084, '802, '886, '271, '525, '991, '791, '997, '205, '303, '415, and '700 patents as the "Patents-in-Suit."

22. Microsoft denies that it has infringed or is presently infringing the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, or '700 patents in any way. Microsoft denies any remaining allegations of paragraph 22 of the Complaint.

23. Microsoft is without information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 23 of the Complaint, and as such denies the same.

24. Microsoft denies the allegations against Microsoft in paragraph 24 of the Complaint, and specifically denies that it has infringed or now infringes the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, or '700 patents in any way. Microsoft is without information or knowledge sufficient to form a belief as to the truth of the allegations against Nintendo in paragraph 24 of the Complaint, and as such denies the same. Microsoft denies any remaining allegations of paragraph 24 of the Complaint.

25. Microsoft is without information or knowledge sufficient to form a belief as to the truth of the allegations against Nintendo in paragraph 25 of the Complaint, and as such denies the same. Microsoft admits that the Complaint provides Microsoft with actual notice of allegations of infringement of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and '700 patents. Microsoft denies that Plaintiff provided notice to Microsoft of its allegations of infringement prior to the filing of this lawsuit. Microsoft admits that prior to the filing of the lawsuit, Microsoft was aware of some allegations of infringement made by a different entity with respect to some, but not all, of the patents now asserted against Microsoft in the Complaint. Microsoft denies any remaining allegations of paragraph 25 of the Complaint.

26. Microsoft denies the allegations of paragraph 26 of the Complaint, and specifically denies that it has infringed or now infringes the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, or '700 patents in any way. Microsoft is without information or knowledge sufficient to form a belief as to the truth of the allegations against Nintendo in paragraph 26 of the Complaint, and as such denies the same. Microsoft denies any remaining allegations of paragraph 26 of the Complaint.

**AFFIRMATIVE AND OTHER DEFENSES**

Further answering the Complaint, Defendant Microsoft asserts the following defenses without assuming any burden that it would not otherwise have. Microsoft reserves the right to amend its answer with additional defenses as further information is obtained.

**First Defense: Noninfringement of the Asserted Patents**

1. Microsoft has not in any manner infringed any claim of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, or '700 patents, and is not liable for infringement thereof.

**Second Defense: Invalidity of the Asserted Patents**

2. The claims of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and '700 patents are invalid for failing to comply with the provisions of Title 35 U.S.C., including without limitation one or more of 35 U.S.C. §§ 101, 102, 103, 112 and 135(b).

**Third Defense: Double Patenting**

3. Claims of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and/or '700 patents are invalid for double patenting.

**Fourth Defense: Use/Manufacture By/For United States Government**

4. To the extent that Microsoft's accused products have been used or manufactured by or for the United States, Plaintiff's claims and demands for relief are barred by 28 U.S.C. § 1498.

**Fifth Defense: Dedication to the Public**

5. Plaintiff has dedicated to the public any method or apparatus disclosed in the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, or '700 patents but not literally claimed therein, and is estopped from claiming infringement by any such public domain method or apparatus.

**Sixth Defense: Unavailability of Relief (Enhanced Damages)**

6. On information and belief, Plaintiff has failed to plead and meet the requirements for enhanced damages.

**Seventh Defense: Indispensable Parties**

7. Those parties retaining rights in the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, or '700 patents are indispensable parties who must be joined.

**Eighth Defense: Failure to Provide Notice**

8. Pursuant to the requirements of 35 U.S.C. § 287, Plaintiff is not entitled to recover any damages for actions occurring prior to its providing actual or constructive notice.

**Ninth Defense: Laches**

9. This lawsuit was filed over six years after issuance of the '084 patent, almost six years after issuance of the '802 patent, almost six years after issuance of the '886 patent, over five years after issuance of the '271 patent, over four years after issuance of the '991 patent, over four years after issuance of the '791 patent, over four years after issuance of the '997 patent, over four years after issuance of the '205 patent, over four years after issuance of the '303 patent, over three years after issuance of the '415 patent, and over a year after issuance of the '700 patent. On information and belief, Plaintiff had knowledge of Microsoft and Microsoft's conduct that is accused of infringement in the Complaint long before this lawsuit was filed. The delay in filing this lawsuit has prejudiced Microsoft. Thus, Plaintiff's claims are barred by the equitable doctrine of laches.

**Tenth Defense: Prosecution Laches**

10. The claims of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and '700 patents are unenforceable under the equitable doctrine of prosecution laches.



**Eleventh Defense: Prosecution History Estoppel**

11. On information and belief, Plaintiff's allegations of patent infringement are barred under the doctrine of prosecution history estoppel, and Plaintiff is estopped from claiming that the claims of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, or '700 patents cover or include Microsoft's products.

**COUNTERCLAIMS**

Microsoft Corporation pleads the following counterclaims against Plaintiff Anascape, Ltd.:

**COUNT I**  
**DECLARATORY JUDGMENT OF PATENT NONINFRINGEMENT**

1. This counterclaim arises under the patent laws of the United States, Title 35 U.S.C. This Court has subject matter jurisdiction over this counterclaim under 28 U.S.C. §§ 1338, 2201, and 2202.

2. Microsoft Corporation ("Microsoft") is a Washington corporation with its principal place of business in Redmond, Washington.

3. Upon information and belief, Plaintiff Anascape, Ltd. ("Plaintiff") is a limited partnership, and has filed suit against Microsoft in this District.

4. Plaintiff purports to be the owner of U.S. Patent No. 5,999,084 ("the '084 patent"), U.S. Patent No. 6,102,802 ("the '802 patent"), U.S. Patent No. 6,135,886 ("the '886 patent"), U.S. Patent No. 6,208,271 ("the '271 patent"), U.S. Patent No. 6,343,991 ("the '991 patent"), U.S. Patent No. 6,344,791 ("the '791 patent") U.S. Patent No. 6,347,997 ("the '997 patent"), U.S. Patent No. 6,351,205 ("the '205 patent") U.S. Patent No. 6,400,303 ("the '303 patent") U.S. Patent No. 6,563,415 ("the '415 patent"), and U.S. Patent No. 6,906,700 ("the '700 patent").

5. Plaintiff has alleged that Microsoft has infringed the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and '700 patents.

6. An actual controversy, within the meaning of 28 U.S.C. §§ 2201 and 2202, exists between Plaintiff, on the one hand, and Microsoft, on the other hand, regarding the noninfringement of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and '700 patents.

7. Microsoft has not infringed, contributed to the infringement of, or induced the infringement of the '084 patent, and is not liable for infringement thereof.

8. Microsoft has not in any way infringed independent claim 1 of the '084 patent.

9. Microsoft has not in any way infringed dependent claim 2 of the '084 patent.

10. Microsoft has not in any way infringed dependent claim 3 of the '084 patent.

11. Microsoft has not in any way infringed dependent claim 4 of the '084 patent.

12. Microsoft has not in any way infringed independent claim 5 of the '084 patent.

13. Microsoft has not in any way infringed dependent claim 6 of the '084 patent.

14. Microsoft has not in any way infringed independent claim 7 of the '084 patent.

15. Microsoft has not in any way infringed dependent claim 8 of the '084 patent.

16. Microsoft has not in any way infringed independent claim 9 of the '084 patent.

17. Microsoft has not in any way infringed independent claim 10 of the '084 patent.

18. Microsoft has not in any way infringed independent claim 11 of the '084 patent.

19. Microsoft has not infringed, contributed to the infringement of, or induced the infringement of the '802 patent, and is not liable for infringement thereof.

20. Microsoft has not in any way infringed independent claim 1 of the '802 patent.

21. Microsoft has not in any way infringed dependent claim 2 of the '802 patent.

22. Microsoft has not in any way infringed dependent claim 3 of the '802 patent.
23. Microsoft has not in any way infringed dependent claim 4 of the '802 patent.
24. Microsoft has not in any way infringed independent claim 5 of the '802 patent.
25. Microsoft has not in any way infringed dependent claim 6 of the '802 patent.
26. Microsoft has not in any way infringed dependent claim 7 of the '802 patent.
27. Microsoft has not in any way infringed dependent claim 8 of the '802 patent.
28. Microsoft has not in any way infringed independent claim 9 of the '802 patent.
29. Microsoft has not in any way infringed dependent claim 10 of the '802 patent.
30. Microsoft has not in any way infringed dependent claim 11 of the '802 patent.
31. Microsoft has not in any way infringed independent claim 12 of the '802 patent.
32. Microsoft has not in any way infringed dependent claim 13 of the '802 patent.
33. Microsoft has not in any way infringed independent claim 14 of the '802 patent.
34. Microsoft has not in any way infringed dependent claim 15 of the '802 patent.
35. Microsoft has not in any way infringed independent claim 16 of the '802 patent.
36. Microsoft has not in any way infringed dependent claim 17 of the '802 patent.
37. Microsoft has not in any way infringed dependent claim 18 of the '802 patent.
38. Microsoft has not in any way infringed dependent claim 19 of the '802 patent.
39. Microsoft has not infringed, contributed to the infringement of, or induced the

infringement of the '886 patent, and is not liable for infringement thereof.

40. Microsoft has not in any way infringed independent claim 1 of the '886 patent.
41. Microsoft has not in any way infringed independent claim 2 of the '886 patent.
42. Microsoft has not in any way infringed independent claim 3 of the '886 patent.
43. Microsoft has not in any way infringed dependent claim 4 of the '886 patent.

44. Microsoft has not in any way infringed dependent claim 5 of the '886 patent.
45. Microsoft has not in any way infringed independent claim 6 of the '886 patent.
46. Microsoft has not in any way infringed independent claim 7 of the '886 patent.
47. Microsoft has not in any way infringed dependent claim 8 of the '886 patent.
48. Microsoft has not in any way infringed dependent claim 9 of the '886 patent.
49. Microsoft has not in any way infringed dependent claim 10 of the '886 patent.
50. Microsoft has not in any way infringed dependent claim 11 of the '886 patent.
51. Microsoft has not in any way infringed independent claim 12 of the '886 patent.
52. Microsoft has not in any way infringed dependent claim 13 of the '886 patent.
53. Microsoft has not in any way infringed dependent claim 14 of the '886 patent.
54. Microsoft has not in any way infringed dependent claim 15 of the '886 patent.
55. Microsoft has not in any way infringed dependent claim 16 of the '886 patent.
56. Microsoft has not in any way infringed dependent claim 17 of the '886 patent.
57. Microsoft has not in any way infringed dependent claim 18 of the '886 patent.
58. Microsoft has not in any way infringed independent claim 19 of the '886 patent.
59. Microsoft has not infringed, contributed to the infringement of, or induced the infringement of the '271 patent, and is not liable for infringement thereof.
60. Microsoft has not in any way infringed independent claim 1 of the '271 patent.
61. Microsoft has not in any way infringed dependent claim 2 of the '271 patent.
62. Microsoft has not in any way infringed dependent claim 3 of the '271 patent.
63. Microsoft has not in any way infringed dependent claim 4 of the '271 patent.
64. Microsoft has not in any way infringed dependent claim 5 of the '271 patent.
65. Microsoft has not in any way infringed dependent claim 6 of the '271 patent.

66. Microsoft has not in any way infringed dependent claim 7 of the '271 patent.
67. Microsoft has not in any way infringed dependent claim 8 of the '271 patent.
68. Microsoft has not in any way infringed dependent claim 9 of the '271 patent.
69. Microsoft has not in any way infringed dependent claim 10 of the '271 patent.
70. Microsoft has not in any way infringed independent claim 11 of the '271 patent.
71. Microsoft has not in any way infringed dependent claim 12 of the '271 patent.
72. Microsoft has not in any way infringed dependent claim 13 of the '271 patent.
73. Microsoft has not in any way infringed dependent claim 14 of the '271 patent.
74. Microsoft has not in any way infringed dependent claim 15 of the '271 patent.
75. Microsoft has not in any way infringed dependent claim 16 of the '271 patent.
76. Microsoft has not in any way infringed dependent claim 17 of the '271 patent.
77. Microsoft has not in any way infringed dependent claim 18 of the '271 patent.
78. Microsoft has not in any way infringed independent claim 19 of the '271 patent.
79. Microsoft has not in any way infringed dependent claim 20 of the '271 patent.
80. Microsoft has not in any way infringed independent claim 21 of the '271 patent.
81. Microsoft has not in any way infringed independent claim 22 of the '271 patent.
82. Microsoft has not in any way infringed dependent claim 23 of the '271 patent.
83. Microsoft has not in any way infringed dependent claim 24 of the '271 patent.
84. Microsoft has not in any way infringed dependent claim 25 of the '271 patent.
85. Microsoft has not in any way infringed dependent claim 26 of the '271 patent.
86. Microsoft has not in any way infringed dependent claim 27 of the '271 patent.
87. Microsoft has not in any way infringed dependent claim 28 of the '271 patent.
88. Microsoft has not in any way infringed independent claim 29 of the '271 patent.

89. Microsoft has not in any way infringed dependent claim 30 of the '271 patent.

90. Microsoft has not in any way infringed dependent claim 31 of the '271 patent.

91. Microsoft has not infringed, contributed to the infringement of, or induced the infringement of the '991 patent, and is not liable for infringement thereof.

92. Microsoft has not in any way infringed independent claim 1 of the '991 patent.

93. Microsoft has not in any way infringed dependent claim 2 of the '991 patent.

94. Microsoft has not in any way infringed dependent claim 3 of the '991 patent.

95. Microsoft has not in any way infringed dependent claim 4 of the '991 patent.

96. Microsoft has not in any way infringed dependent claim 5 of the '991 patent.

97. Microsoft has not in any way infringed independent claim 6 of the '991 patent.

98. Microsoft has not in any way infringed dependent claim 7 of the '991 patent.

99. Microsoft has not in any way infringed dependent claim 8 of the '991 patent.

100. Microsoft has not in any way infringed dependent claim 9 of the '991 patent.

101. Microsoft has not in any way infringed dependent claim 10 of the '991 patent.

102. Microsoft has not in any way infringed independent claim 11 of the '991 patent.

103. Microsoft has not in any way infringed dependent claim 12 of the '991 patent.

104. Microsoft has not in any way infringed dependent claim 13 of the '991 patent.

105. Microsoft has not in any way infringed dependent claim 14 of the '991 patent.

106. Microsoft has not in any way infringed dependent claim 15 of the '991 patent.

107. Microsoft has not in any way infringed dependent claim 16 of the '991 patent.

108. Microsoft has not in any way infringed dependent claim 17 of the '991 patent.

109. Microsoft has not in any way infringed dependent claim 18 of the '991 patent.

110. Microsoft has not in any way infringed dependent claim 19 of the '991 patent.

111. Microsoft has not in any way infringed dependent claim 20 of the '991 patent.
112. Microsoft has not in any way infringed dependent claim 21 of the '991 patent.
113. Microsoft has not in any way infringed dependent claim 22 of the '991 patent.
114. Microsoft has not in any way infringed independent claim 23 of the '991 patent.
115. Microsoft has not in any way infringed dependent claim 24 of the '991 patent.
116. Microsoft has not in any way infringed dependent claim 25 of the '991 patent.
117. Microsoft has not in any way infringed dependent claim 26 of the '991 patent.
118. Microsoft has not in any way infringed dependent claim 27 of the '991 patent.
119. Microsoft has not in any way infringed dependent claim 28 of the '991 patent.
120. Microsoft has not in any way infringed dependent claim 29 of the '991 patent.
121. Microsoft has not in any way infringed dependent claim 30 of the '991 patent.
122. Microsoft has not in any way infringed dependent claim 31 of the '991 patent.
123. Microsoft has not in any way infringed dependent claim 32 of the '991 patent.
124. Microsoft has not in any way infringed dependent claim 33 of the '991 patent.
125. Microsoft has not in any way infringed dependent claim 34 of the '991 patent.
126. Microsoft has not in any way infringed independent claim 35 of the '991 patent.
127. Microsoft has not in any way infringed dependent claim 36 of the '991 patent.
128. Microsoft has not in any way infringed dependent claim 37 of the '991 patent.
129. Microsoft has not in any way infringed dependent claim 38 of the '991 patent.
130. Microsoft has not in any way infringed dependent claim 39 of the '991 patent.
131. Microsoft has not in any way infringed independent claim 40 of the '991 patent.
132. Microsoft has not in any way infringed dependent claim 41 of the '991 patent.
133. Microsoft has not in any way infringed dependent claim 42 of the '991 patent.

134. Microsoft has not in any way infringed dependent claim 43 of the '991 patent.
135. Microsoft has not in any way infringed independent claim 44 of the '991 patent.
136. Microsoft has not in any way infringed dependent claim 45 of the '991 patent.
137. Microsoft has not in any way infringed dependent claim 46 of the '991 patent.
138. Microsoft has not in any way infringed dependent claim 47 of the '991 patent.
139. Microsoft has not in any way infringed dependent claim 48 of the '991 patent.
140. Microsoft has not in any way infringed dependent claim 49 of the '991 patent.
141. Microsoft has not in any way infringed dependent claim 50 of the '991 patent.
142. Microsoft has not in any way infringed dependent claim 51 of the '991 patent.
143. Microsoft has not in any way infringed dependent claim 52 of the '991 patent.
144. Microsoft has not in any way infringed dependent claim 53 of the '991 patent.
145. Microsoft has not in any way infringed dependent claim 54 of the '991 patent.
146. Microsoft has not in any way infringed dependent claim 55 of the '991 patent.
147. Microsoft has not in any way infringed dependent claim 56 of the '991 patent.
148. Microsoft has not in any way infringed dependent claim 57 of the '991 patent.
149. Microsoft has not in any way infringed dependent claim 58 of the '991 patent.
150. Microsoft has not in any way infringed dependent claim 59 of the '991 patent.
151. Microsoft has not in any way infringed dependent claim 60 of the '991 patent.
152. Microsoft has not in any way infringed dependent claim 61 of the '991 patent.
153. Microsoft has not in any way infringed dependent claim 62 of the '991 patent.
154. Microsoft has not in any way infringed dependent claim 63 of the '991 patent.
155. Microsoft has not in any way infringed dependent claim 64 of the '991 patent.
156. Microsoft has not in any way infringed dependent claim 65 of the '991 patent.



157. Microsoft has not in any way infringed independent claim 66 of the '991 patent.

158. Microsoft has not in any way infringed dependent claim 67 of the '991 patent.

159. Microsoft has not in any way infringed dependent claim 68 of the '991 patent.

160. Microsoft has not in any way infringed dependent claim 69 of the '991 patent.

161. Microsoft has not in any way infringed independent claim 70 of the '991 patent.

162. Microsoft has not in any way infringed dependent claim 71 of the '991 patent.

163. Microsoft has not in any way infringed dependent claim 72 of the '991 patent.

164. Microsoft has not in any way infringed dependent claim 73 of the '991 patent.

165. Microsoft has not in any way infringed dependent claim 74 of the '991 patent.

166. Microsoft has not infringed, contributed to the infringement of, or induced the infringement of the '791 patent, and is not liable for infringement thereof.

167. Microsoft has not in any way infringed independent claim 1 of the '791 patent.

168. Microsoft has not in any way infringed dependent claim 2 of the '791 patent.

169. Microsoft has not in any way infringed dependent claim 3 of the '791 patent.

170. Microsoft has not in any way infringed dependent claim 4 of the '791 patent.

171. Microsoft has not in any way infringed dependent claim 5 of the '791 patent.

172. Microsoft has not in any way infringed dependent claim 6 of the '791 patent.

173. Microsoft has not in any way infringed dependent claim 7 of the '791 patent.

174. Microsoft has not in any way infringed dependent claim 8 of the '791 patent.

175. Microsoft has not in any way infringed dependent claim 9 of the '791 patent.

176. Microsoft has not in any way infringed dependent claim 10 of the '791 patent.

177. Microsoft has not in any way infringed dependent claim 11 of the '791 patent.

178. Microsoft has not in any way infringed dependent claim 12 of the '791 patent.

179. Microsoft has not in any way infringed dependent claim 13 of the '791 patent.
180. Microsoft has not in any way infringed dependent claim 14 of the '791 patent.
181. Microsoft has not in any way infringed dependent claim 15 of the '791 patent.
182. Microsoft has not in any way infringed dependent claim 16 of the '791 patent.
183. Microsoft has not in any way infringed dependent claim 17 of the '791 patent.
184. Microsoft has not in any way infringed dependent claim 18 of the '791 patent.
185. Microsoft has not in any way infringed dependent claim 19 of the '791 patent.
186. Microsoft has not in any way infringed dependent claim 20 of the '791 patent.
187. Microsoft has not in any way infringed dependent claim 21 of the '791 patent.
188. Microsoft has not in any way infringed dependent claim 22 of the '791 patent.
189. Microsoft has not in any way infringed dependent claim 23 of the '791 patent.
190. Microsoft has not in any way infringed dependent claim 24 of the '791 patent.
191. Microsoft has not in any way infringed dependent claim 25 of the '791 patent.
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194. Microsoft has not in any way infringed dependent claim 28 of the '791 patent.
195. Microsoft has not in any way infringed dependent claim 29 of the '791 patent.
196. Microsoft has not in any way infringed dependent claim 30 of the '791 patent.
197. Microsoft has not in any way infringed dependent claim 31 of the '791 patent.
198. Microsoft has not in any way infringed dependent claim 32 of the '791 patent.
199. Microsoft has not in any way infringed dependent claim 33 of the '791 patent.
200. Microsoft has not in any way infringed independent claim 34 of the '791 patent.
201. Microsoft has not in any way infringed dependent claim 35 of the '791 patent.

202. Microsoft has not in any way infringed dependent claim 36 of the '791 patent.
203. Microsoft has not in any way infringed dependent claim 37 of the '791 patent.
204. Microsoft has not in any way infringed dependent claim 38 of the '791 patent.
205. Microsoft has not in any way infringed dependent claim 39 of the '791 patent.
206. Microsoft has not in any way infringed dependent claim 40 of the '791 patent.
207. Microsoft has not in any way infringed dependent claim 41 of the '791 patent.
208. Microsoft has not in any way infringed dependent claim 42 of the '791 patent.
209. Microsoft has not in any way infringed dependent claim 43 of the '791 patent.
210. Microsoft has not in any way infringed independent claim 44 of the '791 patent.
211. Microsoft has not in any way infringed dependent claim 45 of the '791 patent.
212. Microsoft has not in any way infringed dependent claim 46 of the '791 patent.
213. Microsoft has not in any way infringed dependent claim 47 of the '791 patent.
214. Microsoft has not in any way infringed dependent claim 48 of the '791 patent.
215. Microsoft has not in any way infringed dependent claim 49 of the '791 patent.
216. Microsoft has not in any way infringed dependent claim 50 of the '791 patent.
217. Microsoft has not in any way infringed dependent claim 51 of the '791 patent.
218. Microsoft has not in any way infringed dependent claim 52 of the '791 patent.
219. Microsoft has not in any way infringed dependent claim 53 of the '791 patent.
220. Microsoft has not in any way infringed dependent claim 54 of the '791 patent.
221. Microsoft has not in any way infringed dependent claim 55 of the '791 patent.
222. Microsoft has not in any way infringed independent claim 56 of the '791 patent.
223. Microsoft has not in any way infringed dependent claim 57 of the '791 patent.
224. Microsoft has not in any way infringed dependent claim 58 of the '791 patent.

- 225. Microsoft has not in any way infringed dependent claim 59 of the '791 patent.
- 226. Microsoft has not in any way infringed dependent claim 60 of the '791 patent.
- 227. Microsoft has not in any way infringed independent claim 61 of the '791 patent.
- 228. Microsoft has not in any way infringed dependent claim 62 of the '791 patent.
- 229. Microsoft has not in any way infringed dependent claim 63 of the '791 patent.
- 230. Microsoft has not in any way infringed independent claim 64 of the '791 patent.
- 231. Microsoft has not in any way infringed dependent claim 65 of the '791 patent.
- 232. Microsoft has not in any way infringed dependent claim 66 of the '791 patent.
- 233. Microsoft has not infringed, contributed to the infringement of, or induced the

infringement of the '997 patent, and is not liable for infringement thereof.

- 234. Microsoft has not in any way infringed independent claim 1 of the '997 patent.
- 235. Microsoft has not in any way infringed dependent claim 2 of the '997 patent.
- 236. Microsoft has not in any way infringed dependent claim 3 of the '997 patent.
- 237. Microsoft has not in any way infringed dependent claim 4 of the '997 patent.
- 238. Microsoft has not in any way infringed dependent claim 5 of the '997 patent.
- 239. Microsoft has not in any way infringed dependent claim 6 of the '997 patent.
- 240. Microsoft has not in any way infringed dependent claim 7 of the '997 patent.
- 241. Microsoft has not in any way infringed dependent claim 8 of the '997 patent.
- 242. Microsoft has not in any way infringed dependent claim 9 of the '997 patent.
- 243. Microsoft has not in any way infringed dependent claim 10 of the '997 patent.
- 244. Microsoft has not in any way infringed dependent claim 11 of the '997 patent.
- 245. Microsoft has not in any way infringed dependent claim 12 of the '997 patent.
- 246. Microsoft has not in any way infringed dependent claim 13 of the '997 patent.

247. Microsoft has not in any way infringed dependent claim 14 of the '997 patent.
248. Microsoft has not in any way infringed dependent claim 15 of the '997 patent.
249. Microsoft has not in any way infringed dependent claim 16 of the '997 patent.
250. Microsoft has not in any way infringed dependent claim 17 of the '997 patent.
251. Microsoft has not in any way infringed dependent claim 18 of the '997 patent.
252. Microsoft has not in any way infringed dependent claim 19 of the '997 patent.
253. Microsoft has not in any way infringed independent claim 20 of the '997 patent.
254. Microsoft has not in any way infringed dependent claim 21 of the '997 patent.
255. Microsoft has not in any way infringed dependent claim 22 of the '997 patent.
256. Microsoft has not in any way infringed dependent claim 23 of the '997 patent.
257. Microsoft has not in any way infringed dependent claim 24 of the '997 patent.
258. Microsoft has not in any way infringed dependent claim 25 of the '997 patent.
259. Microsoft has not in any way infringed dependent claim 26 of the '997 patent.
260. Microsoft has not in any way infringed dependent claim 27 of the '997 patent.
261. Microsoft has not in any way infringed dependent claim 28 of the '997 patent.
262. Microsoft has not in any way infringed dependent claim 29 of the '997 patent.
263. Microsoft has not in any way infringed dependent claim 30 of the '997 patent.
264. Microsoft has not in any way infringed dependent claim 31 of the '997 patent.
265. Microsoft has not in any way infringed independent claim 32 of the '997 patent.
266. Microsoft has not in any way infringed dependent claim 33 of the '997 patent.
267. Microsoft has not in any way infringed dependent claim 34 of the '997 patent.
268. Microsoft has not in any way infringed dependent claim 35 of the '997 patent.
269. Microsoft has not in any way infringed dependent claim 36 of the '997 patent.

270. Microsoft has not in any way infringed dependent claim 37 of the '997 patent.

271. Microsoft has not in any way infringed dependent claim 38 of the '997 patent.

272. Microsoft has not in any way infringed dependent claim 39 of the '997 patent.

273. Microsoft has not in any way infringed dependent claim 40 of the '997 patent.

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275. Microsoft has not in any way infringed dependent claim 42 of the '997 patent.

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280. Microsoft has not in any way infringed dependent claim 47 of the '997 patent.

281. Microsoft has not in any way infringed dependent claim 48 of the '997 patent.

282. Microsoft has not in any way infringed dependent claim 49 of the '997 patent.

283. Microsoft has not in any way infringed dependent claim 50 of the '997 patent.

284. Microsoft has not in any way infringed dependent claim 51 of the '997 patent.

285. Microsoft has not infringed, contributed to the infringement of, or induced the infringement of the '205 patent, and is not liable for infringement thereof.

286. Microsoft has not in any way infringed independent claim 1 of the '205 patent.

287. Microsoft has not in any way infringed dependent claim 2 of the '205 patent.

288. Microsoft has not in any way infringed independent claim 3 of the '205 patent.

289. Microsoft has not in any way infringed dependent claim 4 of the '205 patent.

290. Microsoft has not in any way infringed independent claim 5 of the '205 patent.

291. Microsoft has not in any way infringed dependent claim 6 of the '205 patent.

292. Microsoft has not in any way infringed independent claim 7 of the '205 patent.

293. Microsoft has not in any way infringed dependent claim 8 of the '205 patent.

294. Microsoft has not in any way infringed dependent claim 9 of the '205 patent.

295. Microsoft has not infringed, contributed to the infringement of, or induced the infringement of the '303 patent, and is not liable for infringement thereof.

296. Microsoft has not in any way infringed independent claim 1 of the '303 patent.

297. Microsoft has not in any way infringed dependent claim 2 of the '303 patent.

298. Microsoft has not in any way infringed dependent claim 3 of the '303 patent.

299. Microsoft has not in any way infringed dependent claim 4 of the '303 patent.

300. Microsoft has not in any way infringed independent claim 5 of the '303 patent.

301. Microsoft has not in any way infringed dependent claim 6 of the '303 patent.

302. Microsoft has not in any way infringed dependent claim 7 of the '303 patent.

303. Microsoft has not in any way infringed dependent claim 8 of the '303 patent.

304. Microsoft has not in any way infringed dependent claim 9 of the '303 patent.

305. Microsoft has not in any way infringed dependent claim 10 of the '303 patent.

306. Microsoft has not in any way infringed independent claim 11 of the '303 patent.

307. Microsoft has not in any way infringed dependent claim 12 of the '303 patent.

308. Microsoft has not in any way infringed dependent claim 13 of the '303 patent.

309. Microsoft has not in any way infringed independent claim 14 of the '303 patent.

310. Microsoft has not in any way infringed dependent claim 15 of the '303 patent.

311. Microsoft has not in any way infringed dependent claim 16 of the '303 patent.

312. Microsoft has not in any way infringed dependent claim 17 of the '303 patent.

313. Microsoft has not in any way infringed independent claim 18 of the '303 patent.

314. Microsoft has not in any way infringed dependent claim 19 of the '303 patent.

315. Microsoft has not in any way infringed independent claim 20 of the '303 patent.

316. Microsoft has not in any way infringed dependent claim 21 of the '303 patent.

317. Microsoft has not in any way infringed dependent claim 22 of the '303 patent.

318. Microsoft has not in any way infringed dependent claim 23 of the '303 patent.

319. Microsoft has not infringed, contributed to the infringement of, or induced the infringement of the '415 patent, and is not liable for infringement thereof.

320. Microsoft has not in any way infringed independent claim 1 of the '415 patent.

321. Microsoft has not in any way infringed dependent claim 2 of the '415 patent.

322. Microsoft has not in any way infringed dependent claim 3 of the '415 patent.

323. Microsoft has not in any way infringed independent claim 4 of the '415 patent.

324. Microsoft has not in any way infringed dependent claim 5 of the '415 patent.

325. Microsoft has not in any way infringed dependent claim 6 of the '415 patent.

326. Microsoft has not in any way infringed independent claim 7 of the '415 patent.

327. Microsoft has not in any way infringed dependent claim 8 of the '415 patent.

328. Microsoft has not in any way infringed independent claim 9 of the '415 patent.

329. Microsoft has not in any way infringed dependent claim 10 of the '415 patent.

330. Microsoft has not in any way infringed independent claim 11 of the '415 patent.

331. Microsoft has not in any way infringed dependent claim 12 of the '415 patent.

332. Microsoft has not in any way infringed independent claim 13 of the '415 patent.

333. Microsoft has not in any way infringed dependent claim 14 of the '415 patent.

334. Microsoft has not in any way infringed dependent claim 15 of the '415 patent.

335. Microsoft has not in any way infringed dependent claim 16 of the '415 patent.



336. Microsoft has not in any way infringed independent claim 17 of the '415 patent.

337. Microsoft has not in any way infringed dependent claim 18 of the '415 patent.

338. Microsoft has not in any way infringed dependent claim 19 of the '415 patent.

339. Microsoft has not in any way infringed independent claim 20 of the '415 patent.

340. Microsoft has not in any way infringed dependent claim 21 of the '415 patent.

341. Microsoft has not in any way infringed dependent claim 22 of the '415 patent.

342. Microsoft has not in any way infringed dependent claim 23 of the '415 patent.

343. Microsoft has not in any way infringed dependent claim 24 of the '415 patent.

344. Microsoft has not infringed, contributed to the infringement of, or induced the infringement of the '700 patent, and is not liable for infringement thereof.

345. Microsoft has not in any way infringed independent claim 1 of the '700 patent.

346. Microsoft has not in any way infringed dependent claim 2 of the '700 patent.

347. Microsoft has not in any way infringed independent claim 3 of the '700 patent.

348. Microsoft has not in any way infringed dependent claim 4 of the '700 patent.

349. Microsoft has not in any way infringed independent claim 5 of the '700 patent.

350. Microsoft has not in any way infringed independent claim 6 of the '700 patent.

351. Microsoft has not in any way infringed dependent claim 7 of the '700 patent.

352. Microsoft has not in any way infringed dependent claim 8 of the '700 patent.

353. Microsoft has not in any way infringed independent claim 9 of the '700 patent.

354. Microsoft has not in any way infringed dependent claim 10 of the '700 patent.

355. Microsoft has not in any way infringed dependent claim 11 of the '700 patent.

356. Microsoft has not in any way infringed independent claim 12 of the '700 patent.

357. Microsoft has not in any way infringed independent claim 13 of the '700 patent.

- 358. Microsoft has not in any way infringed independent claim 14 of the '700 patent.
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- 364. Microsoft has not in any way infringed dependent claim 20 of the '700 patent.
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- 368. Microsoft has not in any way infringed dependent claim 24 of the '700 patent.
- 369. Microsoft has not in any way infringed dependent claim 25 of the '700 patent.
- 370. Microsoft has not in any way infringed independent claim 26 of the '700 patent.
- 371. Microsoft has not in any way infringed dependent claim 27 of the '700 patent.
- 372. Microsoft has not in any way infringed dependent claim 28 of the '700 patent.
- 373. Microsoft has not in any way infringed dependent claim 29 of the '700 patent.
- 374. Microsoft has not in any way infringed dependent claim 30 of the '700 patent.
- 375. Microsoft has not in any way infringed dependent claim 31 of the '700 patent.
- 376. Microsoft has not in any way infringed independent claim 32 of the '700 patent.
- 377. Microsoft has not in any way infringed dependent claim 33 of the '700 patent.

**COUNT II**  
**DECLARATORY JUDGMENT OF PATENT INVALIDITY**

378. Microsoft repeats and realleges paragraphs 1-377 of its Counterclaims, as if fully restated herein.

379. An actual controversy, within the meaning of 28 U.S.C. §§ 2201 and 2202, exists between Plaintiff, on the one hand, and Microsoft, on the other hand, regarding the invalidity of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and '700 patents.

380. The claims of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and '700 patents are invalid for failing to comply with the provisions of the Patent Laws, Title 35 U.S.C., including without limitation one or more of 35 U.S.C. §§ 101, 102, 103, 112 and 135.

381. Claims of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and/or '700 patents are invalid for double patenting.

**PRAYER FOR RELIEF**

WHEREFORE, Microsoft prays for the following relief:

- A. That the Court enter judgment against Plaintiff on, and dismiss with prejudice, each claim of Plaintiff's Complaint against Microsoft;
- B. That the Court enter a judgment declaring that the claims of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and '700 patents are invalid.
- C. That the Court enter a judgment declaring that the claims of the '084, '802, '886, '271, '991, '791, '997, '205, '303, '415, and '700 patents are not infringed by Microsoft;
- D. That the Court declare this an exceptional case pursuant to 35 U.S.C. § 285 and award to Microsoft its reasonable costs and attorneys' fees, together with interest, including prejudgment interest, thereupon; and
- D. That the Court grant to Microsoft such other and further relief as may be deemed just and appropriate.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b) and Local Rule CV-38, Defendant Microsoft Corporation respectfully demands a trial by jury.

Respectfully submitted,

Dated: September 22, 2006

By: /s/ J. Thad Heartfield  
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Attorneys for Defendant Microsoft Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 22nd day of September, 2006. Any other counsel of record will be served by first class mail.

/s/ J. Thad Heartfield