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

ANASCAPE, LTD.,
Plaintiff,

v. 8 Civil Action No.: 9:06-CV-00158-RC

Hon. Ron Clark

Defendants.

DEFENDANT MICROSOFT CORPORATION'S UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL A SECOND AMENDED ANSWER, DEFENSES AND COUNTERCLAIMS TO PLAINTIFF'S FIRST AMENDED COMPLAINT

Pursuant to Fed. R. Civ. P. 15(a), Defendant Microsoft Corporation ("Microsoft") moves the Court for leave to file its Second Amended Answer, Defenses, and Counterclaims to Plaintiff's First Amended Complaint. By the amendment, Microsoft would plead, with the specificity required by Fed. R. Civ. P. 9(b), four additional grounds of inequitable conduct for its defense and counterclaim of patent unenforceability, and additional facts supporting grounds contained in Microsoft's First Amended Answer, Defenses and Counterclaims to Plaintiff's First Amended Complaint. The facts underlying the new allegations contained in the proposed amended pleading are based on alleged inequitable conduct that has only recently occurred as part of reexaminations of the patents-in-suit and/or have only been uncovered recently by Microsoft through discovery.

Microsoft also moves for leave to file its Second Amended Answer, Defenses, and Counterclaims to Plaintiff's First Amended Complaint under seal. Some of the information

supporting the additional grounds for inequitable conduct were obtained from documents and a

deposition designated "Confidential" by Plaintiff pursuant to the Agreed Protective Order

entered in this matter. Because the proposed amended pleading contain information designated

"Confidential," a copy of this motion with the proposed amended pleading is being hand-

delivered to the Court for review.

The four new allegations of inequitable conduct are pled at paragraphs 54-118 of

Microsoft's Defenses and paragraphs 93-157 of Microsoft's Counterclaims. The additional facts

supporting previously pled grounds are pled at paragraphs 50 and 52-53 of Microsoft's Defenses

and paragraphs 89 and 91-92 of Microsoft's Counterclaims. The information obtained from a

document designated as "Confidential" by Plaintiff is contained in paragraphs 62-65, 67-68, and

73 of Microsoft's Defenses and paragraphs 101-04, 106-07, and 112 of Microsoft's

Counterclaims.

Plaintiff Anascape, Ltd., through counsel, has indicated that (a) it does not oppose

Microsoft's motion for leave to file the amended pleading attached to the courtesy copy of this

motion sent to the Court, and (b) it does not oppose Microsoft filing the amended pleading under

seal. Given that Plaintiff does not oppose the amendment, that discovery does not close for

almost two months, and that Rule 15(a) counsels that leave to amend pleadings should be given

freely when justice so requires, Microsoft respectfully requests that the Court grant the requested

leave to file.

Respectfully submitted,

Dated: November 30, 2007

By: /s/ J. Christopher Carraway

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Attorneys for Defendant Microsoft Corporation

CERTIFICATE OF SERVICE

I hereby c	ertify that all counsel of record who have consented to electronic service are being
served with a cop	y of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on
this the 30 th day o	f November, 2007. Any other counsel of record will be served by first class mail.
	/s/ J. Christopher Carraway