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HONORABLE RICHARD A. JONES

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

vs.

BARNES & NOBLE, INC.,  
BARNESANDNOBLE.COM LLC, HON  
HAI PRECISION INDUSTRY CO., LTD.,  
FOXCONN INTERNATIONAL  
HOLDINGS LTD., FOXCONN  
ELECTRONICS, INC., FOXCONN  
PRECISION COMPONENT (SHENZHEN)  
CO., LTD., and INVENTEC  
CORPORATION,

Defendants.

Case No. 11-485 RAJ

DECLARATION OF CHRISTOPHER  
WION IN SUPPORT OF MICROSOFT'S  
MOTION FOR ADDITIONAL TIME TO  
RESPOND TO COUNTERCLAIMS OF  
BARNES & NOBLE, INC. AND  
BARNESANDNOBLE.COM LLC

**NOTED: FRIDAY, MAY 6, 2011**

I, Christopher Wion, declare under penalty of perjury under the laws of the State of  
Washington to the following:

1. I am an attorney at the law firm of Danielson Harrigan Leyh & Tollefson LLP,  
counsel for Plaintiff Microsoft Corporation in the above-captioned matter, and have personal  
knowledge of the facts stated herein.

DECLARATION OF CHRISTOPHER WION IN  
SUPPORT OF MICROSOFT'S MOTION FOR  
ADDITIONAL TIME TO RESPOND TO  
COUNTERCLAIMS OF DEFS BARNES &  
NOBLE, INC. & BARNESANDNOBLE.COM - 1

LAW OFFICES  
DANIELSON HARRIGAN LEYH & TOLLEFSON LLP  
999 THIRD AVENUE, SUITE 4400  
SEATTLE, WASHINGTON 98104  
TEL, (206) 623-1700 FAX, (206) 623-8717

1           2.       Attached to this declaration as Exhibit A is a true and correct copy of the ITC's  
2 "Notice of Investigation," issued in Investigation No. 337-TA-769, dated April 19, 2011.

3           3.       On April 27, 2011, I asked counsel for B&N if B&N would be willing to extend  
4 the deadline for Microsoft's response to B&N's Counterclaims by 30 days. B&N has not yet  
5 responded to the request.

6           DATED this 28th day of April, 2011 in Seattle, Washington.

7  
8                               /s/ Christopher Wion  
9                               CHRISTOPHER WION

1 **CERTIFICATE OF SERVICE**

2 I, Linda Bledsoe, swear under penalty of perjury under the laws of the State of  
3 Washington to the following:

- 4 1. I am over the age of 21 and not a party to this action.  
5 2. On the 28th of April, 2011, I caused the preceding document to be served on  
6 counsel of record in the following manner:

7 **Counsel for Defendants Barnes & Noble, Inc.**  
8 **and barnesandnoble.com LLC**

9 Louis D. Peterson ([ldp@hcmp.com](mailto:ldp@hcmp.com))  
10 Michael R. Scott ([mrs@hcmp.com](mailto:mrs@hcmp.com))  
11 Mary E. Crego ([mec@hcmp.com](mailto:mec@hcmp.com))  
12 Hillis Clark Martin & Peterson  
13 1221 Second Avenue, Suite 500  
14 Seattle, WA 98101-2925  
15 Phone: 206-623-1745  
16 Fax: 623-7789

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\_\_\_\_ US Mail  
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/s/ Linda Bledsoe  
LINDA BLEDSOE

# EXHIBIT A

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C. 20436

**In the Matter of**

**CERTAIN HANDHELD ELECTRONIC  
COMPUTING DEVICES, RELATED  
SOFTWARE, AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-769**

**NOTICE OF INVESTIGATION**

Institution of investigation pursuant to 19 U.S.C. § 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 21, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Microsoft Corporation of Redmond, Washington. An amended complaint and additional exhibits were filed on April 8, 2011 and April 12, 2011. The complaint, as amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain handheld electronic computing devices, related software, and components thereof by reason of infringement of certain claims of U.S. Patent No. 5,778,372 ("the '372 patent"); U.S. Patent No. 5,889,522 ("the '522 patent"); U.S. Patent No. 6,339,780 ("the '780 patent"); U.S. Patent No. 6,891,551 ("the '551 patent"); and U.S. Patent No. 6,957,233 ("the '233 patent"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

**AUTHORITY:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2011).

**SCOPE OF INVESTIGATION:** Having considered the complaint, the U.S. International Trade Commission, on April 18, 2011, **ORDERED THAT -**

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain handheld electronic computing devices, related software, and components thereof that infringe one or more of claims 1 and 5 of the '372 patent; claims 1, 2, and 12 of the '522 patent; claims 1-6, 9-14, 17-26, and 29-42 of the '780 patent; claims 1-3, 5, and 7-11 of the '551 patent; claims 21 and 22 of the '233 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant:

Microsoft Corporation  
One Microsoft Way  
Redmond, WA 98052

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Barnes & Noble, Inc.  
122 Fifth Avenue  
New York, NY 10011

barnesandnoble.com LLC  
76 9<sup>th</sup> Avenue, 9<sup>th</sup> Floor  
New York, NY 10011

Hon Hai Precision Industry Co., Ltd.  
2 Zihyou Street, Tucheng City  
Taipei County, 236  
Taiwan

Foxconn Electronics, Inc.  
2 Zihyou Street, Tucheng City  
Taipei County, 236  
Taiwan

Foxconn Precision Component (Shenzhen) Co.  
Ltd.  
No. 2, East Ring Road  
No. 10 Industrial Zone  
Yousong, Longhua, Shenzhen  
Guandong 518109  
China

Foxconn International Holdings Ltd.  
8F Peninsula Tower  
538 Castle Peak Road  
Cheung Sha Wan Kowloon  
New Territories  
Hong Kong

Inventec Corporation  
Inventec Building  
No. 66 Hou-Kang Street  
Shin-Lin District  
Taipei County, 111  
Taiwan

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(d)-(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefore is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

/s/

James R. Holbein  
Acting Secretary to the Commission

Issued: April 19, 2011