1 KARIN G. PAGNANELLI (SBN 174763)
2 kgp@msk.com
   MITCHELL SILBERBERG & KNUPP LLP
3 11377 West Olympic Boulevard
4 Los Angeles, California 90064-1683
   Telephone: (310) 312-2000
5 Facsimile: (310) 312-3100

6 STEPHEN J. JONCUS (*pro hac vice*)
7 stephen.joncus@klarquist.com
   SALUMEH R. LOESCH (*pro hac vice*)
8 salumeh.loesch@klarquist.com
9 JOHN D. VANDENBERG (*pro hac vice*)
   john.vandenberg@klarquist.com
10 KLARQUIST SPARKMAN, LLP
11 121 SW Salmon Street, Suite 1600
   Portland, Oregon 97204
12 Telephone: (503) 595-5300
13 Facsimile: (503) 595-5301

14 *Attorneys for Defendants Microsoft*
15 *Corporation, Hewlett-Packard Company,*
   Dell Inc., and Acer America Corporation

16
                  UNITED STATES DISTRICT COURT
17
                 CENTRAL DISTRICT OF CALIFORNIA
18
19   SOUTHERN DIVISION

20 PROXYCONN INC.,   CASE NO. SA CV11-1681 DOC (ANx)
21   Plaintiff,   [Consolidated with Case Nos. SA CV11-
                                      1682 DOC (ANx), SA CV11-1683 DOC
22   v.   (ANx), and SA CV11-1684 DOC (ANx)]
23
   MICROSOFT CORPORATION, et al.,   DEFENDANT MICROSOFT
24   CORPORATION'S RESPONSE TO
            Defendants.   PLAINTIFF PROXYCONN INC.'S
25   FIRST SET OF INTERROGATORIES
26   [NOS. 1-8]

27
28

RESPONES TO INTERROGATORY NOS. 1 AND 5 CONTAIN INFORMATION DESIGNATED CONFIDENTIAL[1]

Pursuant to Federal Rules of Civil Procedure 26 and 33, Defendant Microsoft Corporation ("Microsoft") responds and objects to Proxyconn Inc.'s ("Proxyconn") First Set of Interrogatories as follows.

Microsoft's responses are based on information known and available to it at the time of these responses based on a reasonable investigation. Microsoft's investigation in this matter is continuing. Further, because all information and documents that are possibly within the scope of the Interrogatories may not have yet been located and identified, the development of Microsoft's contentions with respect to its claims and defenses is ongoing. Microsoft reserves the right to assert additional objections to the Interrogatories and to modify and supplement its responses pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

Microsoft's responses to these Interrogatories are not to be construed as admissions that any of the requested information exists or that any contention or assumption contained in the interrogatories, whether implicit or explicit, is correct.

By making any responses, Microsoft does not concede that the information given is properly discoverable or admissible, and Microsoft reserves its right to object to the introduction of these responses into evidence for any purpose.

Microsoft is willing and prepared to discuss definitions of vague, ambiguous, or otherwise objectionable terms, as well as the appropriate discoverable scope of each Interrogatory in light of the objections contained herein.

---

[1] The parties are in the process of negotiating the terms of a protective order. Until there is a protective order in place, these confidential responses shall remain confidential, reviewed only by Plaintiff's outside counsel. After the parties enter into an agreed protective order, the terms of that order will govern the "CONFIDENTIAL" designation of these responses.

GENERAL OBJECTIONS

These General Objections are incorporated into the specific responses below.

A.   Microsoft objects to these Interrogatories to the extent that they attempt to impose an obligation on Microsoft different from or greater than that required by the Federal Rules of Civil Procedure, the Local Rules of the Central District of California, the Court's rules and orders entered in this action, and any agreements between the parties.

B.   Microsoft objects to these Interrogatories to the extent that they request information related to patents or patent claims that have not been asserted against Microsoft, and thus are irrelevant, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

C.   Microsoft objects to these Interrogatories to the extent that they request the disclosure of information protected by the attorney-client privilege, the work-product doctrine, common interest privilege, joint defense privilege, mediation privilege, or any other privilege or immunity. Microsoft hereby asserts all such applicable privileges and protections, and excludes privileged and protected information from its responses to the Interrogatories. Unless explicitly stated, any disclosure of such privileged or protected information is inadvertent and should not be construed as a waiver of the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege, protection or doctrine. Further, Microsoft will not log any privileged or protected documents created after the filing of the original complaint, on November 3, 2011.

D.   Microsoft objects to these Interrogatories as vague, ambiguous, overly broad in scope, seeking information not relevant to the claims or defenses of Microsoft, and not reasonably calculated to lead to admissible evidence to the extent the Interrogatory contains no or unreasonable time limitations.

1   E.   Microsoft objects to these Interrogatories as they lack an appropriate

2   geographic limitation. Activities outside of the United States are irrelevant to this

3   action, and any interrogatory not limited to activities in the United States is

4   objectionable. To the extent these Interrogatories go beyond that scope, they are

5   objectionable.

6   F.   Microsoft objects to these Interrogatories as unduly vague and

7   overbroad, to the extent that they fail to identify the information sought with

8   reasonable particularity, thereby requiring Microsoft to resort to conjecture and

9   speculation as to what information is sought.

10   G.   Microsoft objects to these Interrogatories to the extent they request

11   confidential, proprietary, or trade secret information that is not relevant to this

12   action including, without limitation, confidential business information, proprietary

13   and/or competitively sensitive information, or trade secrets. If necessary and at the

14   appropriate time, if such information is responsive and its provision is otherwise

15   unobjectionable, Microsoft will provide it subject to a protective order entered in

16   this action, or seek additional protections from the Court, if necessary.

17   H.   Microsoft objects to these Interrogatories to the extent they seek

18   information that Microsoft is not permitted to disclose pursuant to confidentiality

19   obligations or agreements with third or nonparties or protective orders.

20   I.   Microsoft objects to these Interrogatories to the extent they seek

21   information from an individual or entity outside of Microsoft's control; Microsoft

22   cannot reasonably respond to such interrogatories, and objects to them as

23   unreasonable and unduly burdensome. Microsoft further objects to the extent the

24   Interrogatories would require it to produce or disclose information that is publicly

25   available or that is as readily identifiable and accessible to Plaintiff as it is to

26   Microsoft. If necessary and at the appropriate time, Microsoft shall conduct a

27

reasonably calculated search of reasonably available sources within its possession, custody and control, in conformity with the Federal Rules of Civil Procedure.

J. Microsoft objects to these Interrogatories to the extent that they are cumulative and/or duplicative.

K. Microsoft objects to these Interrogatories to the extent they are compound, and/or contain multiple discrete subparts within the meaning of Rule 33(a) of the Federal Rules of Civil Procedure.

L. Microsoft objects to these Interrogatories to the extent that they assume facts not in evidence.

M. Microsoft objects to these Interrogatories to the extent that they call for purely legal conclusions and/or the rendering of expert opinions.

N. To the extent these Interrogatories seek discovery of information within the scope of Fed. R. Civ. P. 26(b)(4), Microsoft objects to these Interrogatories as premature and improper discovery of expert opinion.

O. Microsoft objects to these Interrogatories to the extent they seek discovery of electronically stored information from sources that are not reasonably accessible (i.e., legacy systems, disaster recovery backup media, temporary or ambient data left by previously-deleted files that would require computer forensics work to obtain, etc.) in light of the burdens or costs required to locate, restore, and review whatever responsive information may be found. Notwithstanding this objection, Microsoft has not identified any such sources in response to these discovery requests and believes that any such data on sources that are not reasonably accessible would be cumulative or duplicative of data that is reasonably accessible. *See* Fed. R. Civ. P. 26(b)(2)(B).

P. To the extent these Interrogatories seek different data or data in configurations different from those for which such databases are configured, Microsoft is not searching or attempting to produce information from such

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

fastcase
Smarter legal research.