1	KARIN G. PAGNANELLI (SBN 174763))		
2	kgp@msk.com MITCHELL SILBERBERG & KNUPP LI	LP		
3	11377 West Olympic Boulevard Los Angeles, California 90064-1683			
4	Telephone: (310) 312-2000 Facsimile: (310) 312-3100			
5	STEPHEN J. JONCUS (pro hac vice)			
6	stephen.joncus@klarquist.com SALUMEH R. LOESCH (<i>pro hac vice</i>) salumeh.loesch@klarquist.com			
7	JOHN D. VANDENBERG (pro hac vice)			
8	john.vandenberg@klarquist.com KLARQUIST SPARKMAN, LLP 121 SW Salmon Street, Suite 1600			
9	Portland, Oregon 97204 Telephone: (503) 595-5300			
10	Attorneys for Defendants			
11	Microsoft Corporation, Hewlett-Packard (Dell Inc., and Acer America Corporation	Company,		
12	UNITED STATES I	DISTRICT	COURT	
13	CENTRAL DISTRIC			
14	SOUTHERN	DIVISIO	N	
15	PROXYCONN, INC.,		O. SA CV11-1681 dated With Case N	` ′
16	Plaintiff,	-	582 DOC (ANx), S	
17	V.	1683 DO DOC (A)	(ANx), and SA	CV11-1684
18	MICROSOFT CORPORATION et al.,	`	DANTS MICROS	SOFT
19	Defendants.	CORPO	RATION, HEWI	LETT-
20	Defendants.		RD COMPANY, CER AMERICA	DELL INC.,
21 22			RATION'S NOT	
23			N AND MOTION ARY JUDGMEN'	
23 24		INVALI	DITY	
2 4 25		Time: Date:	8:30 a.m. August 20, 2012	
26		Ctrm:	9D	
20 27		Before:	Hon. David O. C	
- '				MICROSOFT



TO ALL PARTIES AND THEIR COUNSEL OF RECORD HEREIN: 1 2 PLEASE TAKE NOTICE that on August 20, 2012 at 8:30 a.m., Defendants 3 Microsoft Corporation, Hewlett-Packard Company, Dell Inc., and Acer America 4 Corporation ("Defendants") will bring on for hearing this Motion for summary 5 judgment, before the Honorable David O. Carter, in courtroom 9D at 411 West 6 Fourth Street, Santa Ana, California 92701. 7 Defendants, by and through undersigned counsel, hereby move this Court pursuant to Fed. R. Civ. P. 56 for summary judgment that all claims of the asserted 8 9 patent are invalid under 35 U.S.C. § 112, ¶ 2. 10 This Motion is based on the attached Memorandum of Points and Authorities, the Declaration of Darrell D.E. Long, the Declaration of Sean-Michael 11 12 Riley, the Statement of Undisputed Facts, and any matters of which this Court may 13 take judicial notice, and such additional evidence or argument as may be presented 14 at or before the hearing on this matter. 15 This Motion is made following the conference of counsel pursuant to Local 16 Rule 7-3 on June 21, 2012. 17 **DATED:** July 3, 2012 KARIN G. PAGNANELLI 18 MITCHELL SILBERBERG & KNUPP LLP 19 STEPHEN J. JONCUS 20 SALUMEH R. LOESCH 21 JOHN D. VANDENBERG KLARQUIST SPARKMAN, LLP 22 23 By:/S/Karin G. Pagnanelli 24 Karin G. Pagnanelli Attorneys for Defendants 25 Microsoft Corporation, Hewlett-Packard 26 Company, Dell Inc., and Acer America **Corporation**

Mitchell

1			Table of Contents
2			Page
3	I.	INTF	RODUCTION1
4	II.	BAC	KGROUND MATH2
5		A.	Digital Fingerprints
6		B.	Using Digital Fingerprints To Decrease Data Redundancy
7		C.	False Positives With Fingerprints
8		D.	Probabilities Of False Positives Depend On The Environment3
9	III.	THE	ASSERTED PATENT4
10		A.	Patent's Objectives4
11		B.	Patent Uses "Digital Digests" To Reduce Data Redundancy4
12		C.	Patent: "Digital Digest" Has "Low Probability" Of False Positives 5
13		D.	Patent: MD5 And CRC Functions Calculate "Digital Digests" 6
14		E.	Patent: Rules Out MD5 And CRC By Declaring That "Digital Digest" Is Used As A Similarity Check
15		F.	Patent Applicant: CRC Has "High Probability" Of False Positives9
16	IV.	GOV	TERNING LAW9
17		A.	Summary Judgment Standards9
18		B.	Patent Claims Must Be Particular And Distinct
19	V.	ARG	FUMENT
20		A.	The Patent's Self-Contradictions Cloud The Claims
21		B.	The Patent's Failure To Disclose Any
22			Example Of A "Digital Digest" Clouds The Claims14
23		C.	The Patent Is Unclear On Meaning Of "Low" Probability14
24			1. The Patent Is Unclear On The Environment
2526			2. The Claims Provide No Lower Bound For "Low" Probability
27	VI.	THIS	DEFECT INFECTS ALL CLAIMS
20	VII.	CON	CLUSION21

Mitchell

1	Table of Authorities
2	Page
3	CASES
4	Aero Products Int'l, Inc. v. Intex Recreation Corp. 466 F.3d 1000 (Fed. Cir. 2006)11
5	
6	Amgen Inc. v. Hoechst Marion Roussel, Inc., 314 F.3d 1313 (Fed. Cir. 2003)16
7 8	Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)
9	Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
1112	Datamize, LLC v. Plumtree Software, Inc., 417 F.3d 1342 (Fed. Cir. 2005)
13 14	Eibel Process Co. v. Minn. & Ont. Paper Co., 261 U.S. 45 (1923)
15 16	Fed. Commc'n Comm'n v. Fox Television Stations, 2012 WL 2644462 (U.S. June 21, 2012)
17 18	Gen. Elec. Co. v. Wabash Appliance Corp., 304 U.S. 364 (1938)
19	Halliburton Energy Servs., Inc. v. M-I LLC, 514 F.3d 1244 (Fed. Cir. 2008)
2021	Halliburton Oil Well Cementing Co. v. Walker, 329 U.S. 1 (1946)
2223	Hearing Components, Inc. v. Shure Inc., 600 F.3d 1357 (Fed. Cir. 2010)
2425	Honeywell Int'l, Inc. v. Int'l Trade Comm'n, 341 F.3d 1332 (Fed. Cir. 2003)
2627	IGT v. Bally Gaming Int'l, Inc., 659 F.3d 1109 (Fed. Cir. 2011)11

1 2 3 4 5 6	Markman v. Westview Instruments, Inc., 517 U.S. 370 (1996) 11 Microsoft Corp. v. i4i Ltd P'ship, 131 S. Ct. 2238 (2011) 10 Nissan Fire & Marine Ins. Co. v. Fritz Co., 210 F.3d 1099 (9th Cir. 2000) 10 United Carbon Co. v. Binney & Smith Co., 10
7	317 U.S. 228 (1942)
8	<u>STATUTES</u>
9	35 U.S.C. § 112
10	35 U.S.C. § 288
11 12	RULES
13	Fed. R. Civ. P. 56
14	
15	
16	
17	
18	
19	
2021	
21	
23	
24	
25	
26	
27	

DOCKET

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.

