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

VIRNETX INC. and
SCIENCE APPLICATIONS
INTERNATIONAL CORPORATION,
 	
  Plaintiffs,
 	
vs.
 	
MICROSOFT CORPORATION,
 	
  Defendant.
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		Civil Action No. 13-cv-351
		
		JURY TRIAL DEMANDED

**PLAINTIFF VIRNETX INC.'S AND PLAINTIFF SCIENCE APPLICATIONS
INTERNATIONAL CORPORATION'S ORIGINAL COMPLAINT**

Plaintiff VirnetX Inc. ("VirnetX") and Plaintiff Science Applications International

Corporation ("SAIC") file this Original Complaint against Defendant Microsoft Corporation

("Microsoft") for patent infringement under 35 U.S.C. § 271 and allege, based on its own

personal knowledge with respect to its own actions and based upon information and belief with

respect to all others' actions, as follows:

THE PARTIES

1.   Plaintiff VirnetX Inc. is a corporation organized and existing under the laws of the State

        of Delaware, and maintains its principal place of business at 308 Dorla Ct., Zephyr Cove,

        Nevada 89448.

2.   Science Applications International Corporation ("SAIC") is a corporation formed under

        the laws of the state of Delaware with a principal place of business at 1710 SAIC Drive,

        Mclean, Virginia 22102.

3.   Defendant Microsoft Corporation is a corporation organized under the laws of the State
of Washington, having its principal place of business at One Microsoft Way, Redmond,
Washington 98052. Microsoft is registered to conduct business in the State of Texas,
Filing No. 10404606, and has designated Corporation Service Company, 211 E. 7th
Street, Suite 620, Austin, Texas 78701, as its agent for service of process.

JURISDICTION AND VENUE

4.   This is an action for patent infringement arising under the patent laws of the United
States, 35 U.S.C. §§ 1 *et seq*. This Court has jurisdiction over this action pursuant to 28
U.S.C. §§ 1331 and 1338(a).

5.   This Court has personal jurisdiction over Microsoft. Microsoft conducts business and has
committed acts of patent infringement and/or has induced acts of patent infringement by
others in this district and/or has contributed to patent infringement by others in this
district, the State of Texas, and elsewhere in the United States.

6.   Microsoft has also previously availed itself to this judicial district by filing suit against
other litigants in this district.

7.   Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b)
because, among other things, Microsoft is subject to personal jurisdiction in this district,
has regularly conducted business in this judicial district, and certain of the acts
complained of herein occurred in this judicial district.

8.   Venue is also proper in this district pursuant to an enforceable agreement between the
parties that the Eastern District of Texas shall be the sole and exclusive venue for any
lawsuit arising out of or relating to the settlement agreement between VirnetX and
Microsoft.

PATENTS-IN-SUIT

9.   On December 31, 2002, the United States Patent and Trademark Office duly and legally

issued U.S. Patent No. 6,502,135 (the "'135 patent"), entitled "Agile Network Protocol

for Secure Communications with Assured System Availability." A true and correct copy

of the '135 patent is attached hereto as Exhibit A.

10.   On March 6, 2007, the United States Patent and Trademark Office duly and legally issued

U.S. Patent No. 7,188,180 (the "'180 patent"), entitled "Method for Establishing Secure

Communication Link Between Computers of Virtual Private Network." A true and

correct copy of the '180 patent is attached hereto as Exhibit B.

11.   On August 26, 2008, the United States Patent and Trademark Office duly and legally

issued United States Patent No. 7,418,504 (the "'504 patent") entitled "Agile Network

Protocol for Secure Communications Using Secure Domain Names." A copy of the '504

patent is attached as Exhibit C.

12.   On February 10, 2009, the United States Patent and Trademark Office duly and legally

issued United States Patent No. 7,490,151 (the "'151 patent") entitled "Establishment of

a Secure Communication Link Based on a Domain Name Service (DNS) Request." A

copy of the '151 patent is attached as Exhibit D.

13.   On April 5, 2011, the United States Patent and Trademark Office duly and legally issued

United States Patent No. 7,921,211 (the "'211 patent") entitled "Agile Network Protocol

for Secure Communications Using Secure Domain Names." A copy of the '211 patent is

attached as Exhibit E.

14.   On July 26, 2011, the United States Patent and Trademark Office duly and legally issued

United States Patent No. 7,987,274 ("the '274 patent") entitled "Method for establishing

secure communication link between computers of virtual private network." A copy of the '274 patent is attached as Exhibit F.

15.   VirnetX, together with SAIC, owns all rights, title, and interest in and to the '135, '180, '504, '151, '211, and '274 patents[1] and possesses all rights of recovery.

FACTUAL ALLEGATIONS

16.   On February 15, 2007, VirnetX filed suit against Microsoft for patent infringement, including infringement of the '135 patent. VirnetX subsequently amended its complaint to assert the '180 patent against Microsoft.

17.   On March 16, 2010, a jury found Microsoft liable for willful infringement of all tried claims. The jury also awarded $105,750,000 in damages.

18.   On April 6, 2010, VirnetX moved for entry of judgment on the verdict and for a permanent injunction against Microsoft's continued infringement.

19.   On May 14, 2010, VirnetX and Microsoft entered into a settlement agreement and license in which VirnetX granted a limited license to Microsoft. The license that VirnetX granted to Microsoft was explicitly limited in scope, and Microsoft is not licensed to practice VirnetX's technology in certain excluded ways, particularly across non-Windows platforms.

20.   "Skype" refers collectively to internet communication software applications, Skype-branded hardware or software applications, servers that are used to facilitate Skype communications, the Qik branded software applications and includes any improvements, modifications, enhancements, fixes, updates, upgrades and future versions through trial.

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[1] SAIC maintains an equity interest and review rights related to the '135, '180, '504, '151, '211, and '274 patents.

21.   On October 13, 2011, Microsoft acquired all of the issued and outstanding shares of Skype Global S.á r.l. for approximately $8.5 billion.

22.   Microsoft now develops and markets Skype.

23.   Skype runs on a number of platforms including Microsoft Windows, Windows Phone, OS X, iOS, Linux, Android, BlackBerry, and Symbian.

24.   "Lync" refers collectively to Microsoft internet communication software applications, Lync Server, Lync Online, Lync client software, Lync Web App, other Lync-branded hardware or software applications, servers that are used to facilitate Lync communications and includes any improvements, modifications, enhancements, fixes, updates, upgrades and future versions through trial.

25.   Lync runs on a number of platforms including Microsoft Windows, Windows Phone, OS X, iOS, Android, BlackBerry, and Symbian.

26.   Microsoft has integrated or is integrating Skype into Lync.

27.   Microsoft has committed and continues to commit acts of infringement under 35 U.S.C. § 271 with Skype and Lync, and these acts of infringement fall outside of the scope of the license that VirnetX granted to Microsoft. In committing these acts of infringement, Microsoft acted despite an objectively high likelihood that its actions constituted infringement of at least one valid patent, and Microsoft actually knew or should have known that its actions constituted an unjustifiably high risk of infringement of at least one valid and enforceable patent.

COUNT ONE: PATENT INFRINGEMENT BY MICROSOFT

28.   VirnetX incorporates by reference the preceding paragraphs as if fully set forth herein.

29.   As described below, Microsoft has infringed and continues to infringe the '135, '180, '504, '151, '211, and '274 patents (the "patents-in-suit").

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