

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BRADIUM TECHNOLOGIES LLC,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

C.A. No. 15-31-RGA

JURY TRIAL DEMANDED

PLAINTIFF BRADIUM'S RULE 26(a)(1) INITIAL DISCLOSURES

Plaintiff Bradium Technologies LLC (“Plaintiff”), by and through its undersigned counsel, hereby provides its Initial Disclosures to Defendant Microsoft Corporation (“Defendant”), pursuant to Federal Rule of Civil Procedure 26(a)(1) and the Scheduling Order (D.I. 43).

These Initial Disclosures are based on information reasonably available to Plaintiff at this time. Continuing investigation and discovery may alter the disclosures. Plaintiff reserves the right to amend and supplement these disclosures as necessary during the course of discovery. The information herein is provided without any admission of the relevance or admissibility of particular information for any specific purpose, and without waiver of attorney client privilege, work product immunity, or any other privilege or immunity. Plaintiff reserves its right to object to the admissibility of any information set forth below.

A. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION (Fed. R. Civ. P. 26(a)(1)(A)(i))

The following individuals are likely to have discoverable information that Plaintiff may use to support its claims or defenses in this case, unless solely for impeachment:

1. Isaac Levanon
Inventor, U.S. Patent Nos. 7,139,794; 7,908,343; 8,924,506¹
c/o Kenyon & Kenyon LLP

Isaac Levanon is believed to have knowledge concerning the subject matter described and claimed in U.S. Patent No. 7,139,794, U.S. Patent No. 7,908,343, U.S. Patent No. 8,924,506, and U.S. Patent No. 9,253,239 (collectively, the “patents in suit”), Plaintiff’s ownership and acquisition of the patents in suit, the conception and reduction to practice of the inventions of the patents in suit, objective evidence of the non-obviousness of the inventions of the patents in suit, licensing and/or acquisition discussions between 3DVU and Microsoft that took place in or around 2005, and Microsoft’s knowledge of the subject matter described in, and its willful infringement of, the patents in suit.

2. Alexander I. Poltorak
Chairman and CEO
General Patent Corporation
c/o Kenyon & Kenyon LLP

Alexander I. Poltorak is believed to have knowledge concerning Plaintiff’s offers to license the patents in suit to Microsoft, Microsoft’s refusal to enter into licensing discussions, and Plaintiff’s acquisition and ownership of the patents in suit.

3. Kathlene Ingham
Director of Licensing
General Patent Corporation
c/o Kenyon & Kenyon LLP

Kathlene Ingham is believed to have knowledge concerning offers to license the patents in suit.

¹ Mr. Levanon is also an inventor of U.S. Patent No. 9,253,239 (“the ’239 patent”). Bradium plans to seek leave to amend the Complaint for Patent Infringement, D.I. 1, to add the ’239 patent to this suit. For convenience, the ’239 patent is included in the “patents in suit,” though not yet formally added to the suit.

Plaintiff objects to Defendant directly contacting any employees or members of Bradium in their capacities as such. All contact should be made only through counsel for Plaintiff, Kenyon & Kenyon LLP, One Broadway, New York, NY 10004, (212) 425-7200.

Plaintiff reserves the right to amend and/or supplement the foregoing disclosure of individuals. Plaintiff further notes that there may be personnel of Defendant and/or third parties who are likely to have discoverable information, including such persons who would be more readily known by Defendant. Such persons may be identified during the course of discovery in this case.

B. DESCRIPTION OF DOCUMENTS

Plaintiff identifies the following categories of documents, electronically stored information, and tangible things in its possession, custody, or control that it may use to support its claims or defenses. By making this disclosure, Plaintiff does not represent that it is identifying every potentially relevant document, electronically stored item of information, or tangible thing upon which it may rely for purposes of this lawsuit. Plaintiff's continuing investigation and discovery may reveal additional relevant documents, electronically stored information, or tangible things, and Plaintiff reserves the right to supplement this disclosure accordingly. Plaintiff does not waive its right to object to the production of any particular document, item of electronically stored information, or tangible thing disclosed herein on the basis of any valid objection to its discoverability or admissibility. These documents, electronically stored information, and tangible things are believed to be located at the offices of Plaintiff's attorneys Kenyon & Kenyon LLP, Plaintiff's facilities, the facilities of Plaintiff's members and/or the United States Patent and Trademark Office, Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

1. U.S. Patent Nos. 7,139,794; 7,908,343; 8,924,506; 9,253,239, their prosecution histories, and assignments;
2. Documents, if any exist separately from the prosecution histories, relating to the conception and reduction to practice of the inventions of the patents in suit;
3. Documents relating to Plaintiff's acquisition of the patents in suit;
4. Documents relating to licensing discussions between Defendant's representatives and 3DVU in or around 2005;
5. Documents relating to offers to license for products covered by the patents in suit and Microsoft's refusal to enter into licensing discussions;
6. Documents relating to Microsoft's willful infringement of the patents in suit;
7. Documents relating to objective evidence of the non-obviousness of the inventions of the patents in suit and/or secondary considerations of nonobviousness, and/or documents related to the value of the patents in suit.
8. Documents related to the Accused Products.

Plaintiff notes that there may be documents in the possession, custody or control of Defendant and/or third parties that are relevant to the claims and defenses in this litigation, including but not limited to technical documents concerning the design and development of the accused products, and documents concerning Defendant's use, making, advertising, distribution, offers, and sales of the products and services that embody the patents in suit, including Bing Maps, Bing Maps Preview and Bing Search, financial information regarding these products and services, Defendant's licensing of rights to use these products and services, Defendant's provision of instructions, training and support for users of these products and services, and the design and operation of these products and services. In addition, Plaintiff may rely on

documents in the public domain to support any of its claims or defenses.

C. COMPUTATION OF DAMAGES

Plaintiff is claiming compensatory damages under 35 U.S.C. § 284, no less than a reasonable royalty, as a result of Microsoft's infringement of the patents in suit, together with interest and costs, as well as enhanced damages for willful infringement, pre-issuance royalties for U.S. Patent No. 8,924,506 and a permanent injunction to the extent evidence justifies the request. Plaintiff also seeks to recover costs and attorneys' fees. Computation of each category of damages will be the subject of expert discovery in accordance with Fed. R. Civ. P. 26(a)(2).

D. INSURANCE AGREEMENTS

Plaintiff is not aware of any insurance agreements subject to production pursuant to Fed. R. Civ. P. 26(a)(1)(A)(iv).

Dated: February 25, 2016

PHILLIPS, GOLDMAN & SPENCE, P.A.

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