IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BRADIUM TECHNOLOGIES LLC, *Plaintiff,* v. MICROSOFT CORPORATION, *Defendant.*	**Case No. 1:15-cv-00031-RGA** **JURY TRIAL DEMANDED**

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Bradium Technologies LLC ("Bradium") alleges as follows against defendant Microsoft Corporation ("Microsoft"):

THE PARTIES

1. Bradium Technologies LLC is a Delaware Limited Liability Company (LLC) with a place of business at 75 Montebello Road, Suffern, New York 10901-3746.

2. Microsoft Corporation is a Washington corporation with a place of business at One Microsoft Way, Redmond, WA, 98052-6399. Microsoft may be served via service upon Corporation Service Company, 2711 Centerville Rd., Suite 400, Wilmington, DE 19808.

JURISDICTION AND VENUE

3. This is an action for patent infringement under the patent laws of the United States, Title 35 of the United States Code, arising from Microsoft's making, using, selling, putting into service, and/or offering for sale in the United States, and/or importing into the

United States, and/or supplying in or from the United States, various products, services, and components, including those related to Bing Maps, and/or inducing others to do the same, and/or contributing to others doing the same, and/or inducing or contributing to others combining such components in an infringing manner, during the term of U.S. Patent Nos. 7,139,794, 7,908,343, 8,924,506, and 9,253,239, and from the date Microsoft had notice of the application published as United States Patent Application Publication No. 2011/0175914. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including at least 35 U.S.C. §§ 154(d), 271(a), (b), (c), and (f).

4. This Court has personal jurisdiction over Microsoft because, among other things, Microsoft has made, used, sold, and/or offered for sale Bing Maps products and services in the State of Delaware and within this District, and the causes of action alleged herein arise in part from such conduct, and because Microsoft regularly and systematically transacts business in this District at least through its store located at 137 Christiana Mall, Newark, DE 19702.

5. Furthermore, Microsoft has purposefully availed itself of the benefits of doing business in the State of Delaware and in this District by, among other things, the acts alleged in Paragraph 4 of this Complaint and the acts of filing numerous lawsuits in this District, including, for example, *Microsoft Corp. v. Robocast Inc.*, C.A. 13-cv-313 (D. Del. Feb. 25, 2013), D.I. 1 (Microsoft complaint alleging patent infringement); *Microsoft Corp., et al. v. GeoTag Inc.*, C.A. 11-cv-175 (D Del. Mar. 1, 2011), D.I. 1 (Microsoft complaint seeking declaratory judgment of patent invalidity). Microsoft has not contested that this District is a proper venue and that it is subject to personal jurisdiction in this venue in past litigation. *Interdigital Commc'ns, et al. v.*

Nokia Corp., et al., C.A. 13-cv-010 (D Del. Mar 7, 2013), D.I. 14 at ¶¶ 8-9 (Microsoft answer, consenting to litigate patent infringement matter in the District of Delaware).

6. The exercise of personal jurisdiction over Microsoft would not offend traditional notions of fair play and substantial justice.

7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400 because Microsoft resides or is deemed to reside in this District, is subject to personal jurisdiction in this District, has committed acts of infringement in this District, has a regular and established place of business in this District, may be found in this District, and has one or more agents who reside in or may be found in this District.

BACKGROUND

8. This lawsuit asserts causes of action for infringement of United States Patent Nos. 7,139,794 (the "'794 patent"), 7,908,343 (the "'343 patent"), 8,924,506 (the "'506 patent"), 9,253,239 (the "'239 patent"), and of United States Patent Application Publication No. 2011/0175914 ("Publication No. 2011/0175914") (collectively, the "Asserted Patents").

9. Isaac Levanon and Yoni Lavi invented the technology claimed in the '794, '343, '506 and '239 patents and Publication No. 2011/0175914. A company, 3DVU, was created in order to commercialize this technology.

10. 3DVU met with Microsoft executives on multiple occasions in or around 2005, including a meeting at Microsoft in about September 2005.

11. At these meetings, 3DVU and Microsoft discussed the possible acquisition by Microsoft of the technology invented by Messrs. Levanon and Lavi. In relation to these

meetings, Microsoft specifically requested information about, and 3DVU disclosed to Microsoft executives and engineers involved in mapping technology at Microsoft, the technology and the patent applications that ultimately led to the '794, '343, '506 and '239 patents and Publication No. 2011/0175914. 3DVU demonstrated a prototype for Microsoft personnel.

12. As part of the acquisition discussions, and, on information and belief, to induce 3DVU to continue making further disclosures regarding technology and other matters to Microsoft, Microsoft executives informed 3DVU that they had "strategic approval" from Microsoft to proceed with the acquisition deal.

13. Instead of acquiring 3DVU, or purchasing or seeking to license this technology, upon information and belief, Microsoft without consent or authorization began to incorporate the technology of the '794, '343, '506, and '239 patents and Publication No. 2011/0175914 into its products and services.

14. Microsoft has prior knowledge of at least the '794 and '343 patents as demonstrated by the fact that its own patents and patent applications refer to the '794 and '343 patents. The '794 patent was cited during the prosecution of U.S. Patent No. 7,664,870 ("the '870 patent") on August 15, 2008. The '870 patent was assigned to Microsoft as of August 15, 2008. The '794 patent was also cited during the prosecution of U.S. Patent No. 8,386,560 ("the '560 patent") on September 8, 2008. The '560 patent was assigned to Microsoft as of September 8, 2008. The '343 patent, and its Publication No. 2010/0064002, were cited in an International Search Report for International Application No. PCT/US2011/038008, for which Microsoft was the applicant, on December 28, 2011. Publication No. 2010/0064002 is listed on

the face of U.S. Patent No. 8,446,441 that issued from International Application No. PCT/US2011/038008.

15. Bradium and its managing member and licensing agent General Patent Corporation wrote to Microsoft on May 27, 2014, and again on December 23, 2014, regarding the patent family that includes the '794, '343, '506, and '239 patents, but, despite these invitations, Microsoft did not enter into licensing or business discussions with Bradium or General Patent Corporation. (Exhibit A.) In both the May 27, 2014 and December 23, 2014 letters, Bradium and General Patent Corporation noted the '794 and '343 patents, and informed Microsoft of Application No. 13/027,929, which issued as the '506 patent on December 30, 2014, and which published as Publication No. 2011/0175914 on July 21, 2011.

16. Bradium wrote to Microsoft on February 2, 2016 informing Microsoft of the issuance of the '239 patent. A true and correct copy of the February 2, 2016 letter is attached hereto as Exhibit B. On information and belief, Microsoft was already aware prior to February 2, 2016 that the application for the '239 patent had been granted and that the patent would issue. In the February 2, 2016 letter, Bradium informed Microsoft that Microsoft was directly and indirectly infringing the '239 patent by, among other things, using, putting into service and inducing users to use Bing Maps, Bing Search and Bing Maps Preview products and services. Bradium requested that Microsoft immediately cease its infringing activities regarding the '239 patent, and that Microsoft inform Bradium by February 16, 2016 whether Microsoft would comply. Microsoft responded by letter dated February 16, 2016, in which letter Microsoft failed to state or indicate in any way that it would comply with Bradium's request. Bradium sent a follow up letter dated February 17, 2016 noting Microsoft's failure to state whether it would comply with Bradium's request and stating that Bradium would assume based upon such failure

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