

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

PROXENSE, LLC,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendants.

Civil Action No. 6:23-cv-00319

JURY TRIAL REQUESTED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Proxense, LLC (“Proxense” or “Plaintiff”) hereby sets forth its Complaint for patent infringement against Defendant Microsoft Corporation (“Microsoft” or “Defendant”), and states as follows:

NATURE OF THE CASE

1. This action is for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, et seq. As further stated herein, Proxense alleges that Microsoft infringes one or more claims of patents owned by Proxense. Accordingly, Proxense seeks monetary damages and injunctive relief in this action.

THE PARTIES

2. Plaintiff Proxense, LLC is a Delaware company with its principal place of business at 689 NW Stonepine Drive, Bend, Oregon 97703.

3. On information and belief, Microsoft is a corporation organized and existing under the laws of the State of Washington, with a principal place of business in this district located at 10900 Stonelake Boulevard, Suite 225, Austin, Texas 78759.

JURISDICTION AND VENUE

4. This Court has exclusive subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1338(a) on the grounds that this action arises under the Patent Laws of the United States, 35 U.S.C. § 1 et seq., including, without limitation, 35 U.S.C. §§ 271, 281, 284, and 285.

5. This Court has personal jurisdiction over Microsoft because it has conducted and continues to regularly conduct business within the State of Texas and this District. Microsoft has purposefully and voluntarily availed itself of the privileges of conducting business in the United States, the State of Texas, and this District by continuously and systematically placing goods into the stream of commerce through an established distribution channel with the expectation that they will be purchased by consumers in this District. Microsoft directly and/or through intermediaries (including distributors, sales agents, and others), ships, distributes, sells, offers to sell, imports, advertises, makes, and/or uses its products (including but not limited to the products accused of infringement herein) in the United States, the State of Texas, and this District.

6. Upon information and belief, Microsoft conducts business within the State of Texas and in this district, and has designated Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 211 E. 7th Street, STE 620, Austin, Texas 78701-3218, as its agent for service of process in this district.

7. On information and belief, Microsoft has been registered to do business within the State of Texas under Texas Secretary of State File Number 0010404606 since about March 1987.

8. On information and belief, Microsoft employs one or more of its data centers in this district in furtherance of infringing acts in this district since at least 2008. For example, Microsoft maintains data centers in this district, located at: 5150 Rogers Road, San Antonio,

Texas 78251, 5200 Rogers Road, San Antonio, Texas 78251,¹ and 3823 Wiseman Boulevard, San Antonio, Texas 78251.²

9. On information and belief, Microsoft has operated data centers supporting Microsoft products and services within the State of Texas, and within this district, since at least 2008. Microsoft is building at least three additional data centers in this district, including two data centers located at: 3545 Wiseman Boulevard, San Antonio, Texas 78251, and another data center located at 15000 Block Lambda Drive, San Antonio, Texas 78245. Upon information and belief, Microsoft's data centers, including those in this district, include computer hardware (*e.g.*, memory and processors) that store and execute software that performs some of the actions that infringe on the patents in the lawsuit. On information and belief, Microsoft has employed, is employing, and is offering to employ individuals in this district in furtherance of infringing acts in this district. On information and belief, these employees have direct personal knowledge about the accused products and Microsoft's infringing activities. For example, Justin Santos, Senior Cloud Security Architect, purporting according to his LinkedIn profile to be working at Microsoft in Austin, Texas, describes that he "[d]rive[s] the use and consumption of Microsoft's ... Identity products and services in highly regulated industries – Financial, Healthcare, Federal, and State and Local Government across the US as a part of Microsoft's new Security Solution Area within Customer Success United (CSU)." These data centers which Microsoft operates constitute a regular and established physical presence in the district, including, but not limited to, ownership of or control over property, inventory, or infrastructure.

¹ See <https://www.datacenterhawk.com/providers/microsoft-azure> (last accessed April 28, 2023).

² See <https://www.virtualbx.com/industry-news/san-antonio-microsoft-reaches-mid-point-on-86m-expansion-in-westover-hills/> (last accessed April 28, 2023).

10. On information and belief, Microsoft has operated permanent office facilities within the State of Texas, and within this district, since at least 2000. The offices Microsoft maintains in this district include locations at 10900 Stonelake Boulevard, Suite 225, Austin, Texas 78759³ and Concord Park II, 401 East Sonterra Boulevard, Suite 300, San Antonio, Texas 78258.

11. Microsoft operates offices in Austin, Texas for the purpose of selling, promoting, maintaining, and providing support for a suite of products, including the accused products.

12. On information and belief, Microsoft maintains a “Corporate Sales Offices” in Austin, Texas at the following address: 10900 Stonelake Boulevard, Suite 225 Austin, TX, 78759; and Microsoft maintains a “Corporate Sales Office” in San Antonio, Texas at the following address: Concord Park II 401 East Sonterra Boulevard, Suite 300, San Antonio, TX, 78258.

13. On information and belief, one or more of the Accused Products are used, offered for sale, and sold in this district, including by Microsoft and by “Microsoft-certified resellers” (e.g., Heart of Texas Network Consultants, located at 703 Willow Grove Rd., Waco, Texas 76712).

14. On information and belief, Microsoft operated at least ten physical stores throughout Texas, some of which were in this district, from 2009 until they were all closed in 2020. During that time period, Microsoft had physical stores that sold Microsoft’s products at least at the following addresses: (a) 3309 Esperanza Crossing, Austin, TX 78758 and (b) 15900 La Cantera Parkway The Shops at La Cantera San Antonio, TX 78256.

³ See <https://news.microsoft.com/2000/01/05/microsoft-opens-austin-texas-facility/> (last accessed April 28, 2023).

15. Proxense's causes of action arise directly from Microsoft's business contacts and other activities in the State of Texas and this District.

16. Microsoft has derived substantial revenues from its infringing acts within the State of Texas and this District.

17. In other recent actions, Microsoft has either admitted or not contested that this federal judicial district is a proper venue for patent infringement actions against it. *See, e.g., Thompson v. Microsoft Corp.*, No. 1:19-cv-00680-RP, Dkt. No. 6; *Panther Innovations v. Microsoft Corp.*, No. 6-20-cv-01071, Dkt. No. 14; *Exafer Ltd. v. Microsoft Corp.*, No. 1-20-cv-00131, Dkt. No. 15; *WSOU Investments, LLC v. Microsoft Corp.*, No. 20-cv-00464, Dkt. No. 20; *Zeroclick, LLC v. Microsoft Corp.*, No. 20-cv-00272, Dkt. No. 14; and *California Institute of Technology v. Microsoft Corp.*, No. 21-cv-00276, Dkt. No. 22.

18. Venue is proper in the Western District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Microsoft maintains regular and established places of business in this district and has committed acts of infringement within this district giving rise to this action.

19. Microsoft has committed acts of infringement in this District and does business in this District, including making sales and/or providing service and support for customers and/or end-users in this District. Microsoft purposefully and voluntarily sold one or more infringing products with the expectation they would be purchased in this District. These infringing products have been and continue to be purchased in this District. Thus, Microsoft has committed acts of infringement within the United States, the State of Texas, and this District.

20. Furthermore, Microsoft maintains corporate sales offices in this district, which, on information and belief, provide sales and support for the infringing products.

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