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8	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE	
10	MICROSOFT CORPORATION, a Washington Corporation) Case No:
11	Districted)) COMPLAINTEEOD DATENTE
12	Plaintiff,) COMPLAINT FOR PATENT) INFRINGEMENT
13	V.) JURY DEMAND
14	SALESFORCE.COM, INC., a Delaware Corporation)
15	Defendants.)
16 17		<u> </u>
18	Plaintiff Microsoft Corporation ("Microso	ft") for its Complaint For Patent Infringement
19	against Defendant Salesforce.com, Inc. ("Defendant"), alleges as follows:	
20	PARTIES	
21	1. Plaintiff Microsoft Corporation is a Washington corporation having its principal	
22	place of business at One Microsoft Way, Redmond, Washington 98052.	
23	2. Founded in 1975, Microsoft is a worldwide leader in computer software, services	
24	and solutions for businesses and consumers. Since 1979, Microsoft has been headquartered in	
25	the Seattle, Washington metropolitan area. Microsoft currently employs nearly 40,000 people is	
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	COMPLAINT FOR PATENT INFRINGEMENT– 1	Microsoft Corporation 1 Microsoft Way Redmond, Washington 98052 Telephone: 425-882-8080

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the Puget Sound area and occupies nearly 8 million square feet of facilities at its Redmond campus.

- 3. Microsoft has a long history of technical innovation in the software and hardware products it develops and distributes. These software products include operating systems for servers, personal computers, embedded devices, smartphones, PDAs, and other intelligent devices; "cloud" computing platforms, such as Windows Azure; customer relationship management software, such as Microsoft Dynamics CRM and Microsoft Dynamics ERP; server applications for distributed computing environments; various web applications and services; information worker productivity applications; business solution applications; high-performance computing applications; and software development tools.
- 4. On information and belief, Defendant Salesforce.com, Inc. is a United States corporation organized and existing under the laws of Delaware having a principal place of business at The Landmark at One Market Street, Suite 300, San Francisco, CA 94105.
- 5. On information and belief, Defendant is in the business of developing and providing customer relationship management (CRM) software as a service over the Internet. On information and belief, Defendant offers this CRM "software as a service" (SAAS) worldwide, including in the United States, via its websites and servers, which are located throughout the United States. On information and belief, Defendant does business within the Western District of Washington.

JURISDICTION AND VENUE

- 6. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.
- 7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
- 8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, Defendant is subject to this Court's personal jurisdiction,

consistent with the principles of due process and the Washington Long Arm Statute, because Defendant offers its services for sale in the Western District of Washington, has transacted business in this District, and/or has committed and/or induced acts of patent infringement in this District.

PATENT INFRINGEMENT COUNTS

- 9. Microsoft is the owner of all right, title, and interest in U.S. Patent Nos. 7,251,653; 5,742,768; 5,644,737; 6,263,352; 6,122,558; 6,542,164; 6,281,879; 845,077; and 5,941,947 (collectively, "the Microsoft patents-in-suit"), which the Defendant is infringing and/or inducing others to infringe by, among other things, making, using, making available for another's use, offering to license or licensing in the United States, offering to sell or selling in the United States, or importing into the United States, products or processes that practice inventions claimed in the Microsoft patents-in-suit.
- 10. The Defendant has profited through infringement of the Microsoft patents-in-suit. As a result of the Defendant's unlawful infringement of the Microsoft patents-in-suit, Microsoft has suffered and will continue to suffer damage. Microsoft is entitled to recover from the Defendant the damages suffered by Microsoft as a result of the Defendant's unlawful acts.
- 11. On information and belief, Defendant's infringement of the Microsoft patents-insuit is willful and deliberate, entitling Microsoft to enhanced damages and reasonable attorney fees and costs. Microsoft has provided Defendant notice of its infringement through, inter alia, service of this complaint and prior communications between the parties.
- 12. On information and belief, the Defendant intends to continue its unlawful infringing activity, and Microsoft continues to and will continue to suffer irreparable harm—for which there is no adequate remedy at law—from such unlawful infringing activity unless Defendant is enjoined by this Court.

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INFRINGEMENT OF U.S. PATENT NO. 7,251,653

- 13. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-12.
- 14. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 7,251,653 ("the '653 patent"), entitled "Method and system for mapping between logical data and physical data," duly and properly issued by the U.S. Patent and Trademark Office on July 31, 2007. A copy of the '653 patent is attached as Exhibit A.
- 15. The Defendant has been and/or is directly infringing the '653 patent by, among other things, making, using, offering to license or licensing in the United States, offering to sell or selling in the United States, products and/or services, including various web applications and services and the hardware and software running these applications and services, that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '653 patent.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 5,742,768

- 16. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-12.
- 17. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,742,768 ("the '768 patent"), entitled "System and method for providing and displaying a web page having an embedded menu," duly and properly issued by the U.S. Patent and Trademark Office on April 21, 1998. A copy of the '768 patent is attached as Exhibit B.
- 18. The Defendant has been and/or is directly infringing and/or inducing others to infringe the '768 patent by, among other things, making, using, making available for another's use, offering to license or licensing in the United States, offering to sell or selling in the United States, products and/or services, including various web applications and services and the

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hardware and software running these applications and services, that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '768 patent.

COUNT III

INFRINGEMENT OF U.S. PATENT NO. 5,644,737

- Microsoft realleges and incorporates by reference the allegations set forth in 19. paragraphs 1-12.
- 20. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,644,737 ("the '737 patent"), entitled "Method and system for stacking toolbars in a computer display," duly and properly issued by the U.S. Patent and Trademark Office on July 1, 1997. A copy of the '737 patent is attached as Exhibit C.
- 21. The Defendant has been and/or is directly infringing and/or inducing others to infringe the '737 patent by, among other things, making, using, making available for another's use, offering to license or licensing in the United States, offering to sell or selling in the United States, or importing into the United States, products and/or services, including various web applications and services and the hardware and software running these applications and services, that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '737 patent.

COUNT IV

INFRINGEMENT OF U.S. PATENT NO. 6,263,352

- 22. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-12.
- 23. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,263,352 ("the '352 patent"), entitled "Automated web site creation using template driven generation of active server page applications," duly and properly issued by the U.S. Patent and Trademark Office on July 17, 2001. A copy of the '352 patent is attached as Exhibit D.

24. The Defendant has been and/or is directly infringing the '352 patent by, among other things, making, using, offering to license or licensing in the United States, offering to sell or selling in the United States, products and/or services, including various web applications and services and the hardware and software running these applications and services, that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '352 patent.

COUNT V

INFRINGEMENT OF U.S. PATENT NO. 6,122,558

- 25. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-12.
- 26. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,122,558 ("the '558 patent"), entitled "Aggregation of system settings into objects," duly and properly issued by the U.S. Patent and Trademark Office on September 19, 2000. A copy of the '558 patent is attached as Exhibit E.
- 27. The Defendant has been and/or is directly infringing and/or inducing others to infringe the '558 patent by, among other things, making, using, making available for another's use, offering to license or licensing in the United States, offering to sell or selling in the United States, products and/or services, including various web applications and services and the hardware and software running these applications and services, that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '558 patent.

COUNT VI

INFRINGEMENT OF U.S. PATENT NO. 6,542,164

- 28. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-12.
- 29. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,542,164 ("the '164 patent"), entitled "Timing and velocity control for displaying graphical information,"

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duly and properly issued by the U.S. Patent and Trademark Office on April 1, 2003. A copy of the '164 patent is attached as Exhibit F.

30. The Defendant has been and/or is directly infringing and/or inducing others to infringe the '164 patent by, among other things, making, using, offering to license or licensing in the United States, offering to sell or selling in the United States, products and/or services, including various web applications and services and the hardware and software running these applications and services, that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '164 patent.

COUNT VII

INFRINGEMENT OF U.S. PATENT NO. 6,281,879

- 31. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-12.
- 32. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,281,879 ("the '879 patent"), entitled "Timing and velocity control for displaying graphical information," duly and properly issued by the U.S. Patent and Trademark Office on August 28, 2001. A copy of the '879 patent is attached as Exhibit G.
- 33. The Defendant has been and/or is directly infringing and/or inducing others to infringe the '879 patent by, among other things, making, using, making available for another's use, offering to license or licensing in the United States, offering to sell or selling in the United States, products and/or services, including various web applications and services and the hardware and software running these applications and services, that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '879 patent.

COUNT VIII

INFRINGEMENT OF U.S. PATENT NO. 5,845,077

34. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-12.

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- 35. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,845,077 ("the '077 patent"), entitled "Method and system for identifying and obtaining computer software from a remote computer," duly and properly issued by the U.S. Patent and Trademark Office on December, 1, 1998. A copy of the '077 patent is attached as Exhibit H.
- 36. The Defendant has been and/or is directly infringing and/or inducing others to infringe the '077 patent by, among other things, making, using, making available for another's use, offering to license or licensing in the United States, offering to sell or selling in the United States, products and/or services, including various web applications and services and the hardware and software running these applications and services, that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '077 patent.

COUNT IX

INFRINGEMENT OF U.S. PATENT NO. 5,941,947

- 37. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-12.
- 38. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,941,947 ("the '947 patent"), entitled "System and method for controlling access to data entities in a computer network," duly and properly issued by the U.S. Patent and Trademark Office on August 24, 1999. A copy of the '947 patent is attached as Exhibit I.
- 39. The Defendant has been and/or is directly infringing the '947 patent by, among other things, making, using, making available for another's use, offering to license or licensing in the United States, offering to sell or selling in the United States, products and/or services, including various web applications and services and the hardware and software running these applications and services, that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '947 patent.

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DEMAND FOR JURY TRIAL

40. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Microsoft respectfully requests a trial by jury on all issues properly triable by jury.

PRAYER FOR RELIEF

WHEREFORE, Microsoft prays for relief as follows:

- A. For a judgment declaring that Defendant has infringed at least one claim of each of the Microsoft patents-in-suit;
- B. For a judgment awarding Microsoft compensatory damages as a result of Defendant's infringement of the Microsoft patents-in-suit, together with interest and costs, and in no event less than a reasonable royalty;
- C. For a judgment declaring that Defendant's infringement of the Microsoft patents-in-suit has been willful and deliberate;
- D. For a judgment awarding Microsoft treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendant's willful and deliberate infringement of the Microsoft patents-in-suit;
- E. For a judgment declaring that this case is exceptional and awarding Microsoft its expenses, costs, and attorneys fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;
- F. For a grant of preliminary and permanent injunctions pursuant to 35 U.S.C. § 283, enjoining Defendant from further acts of infringement; and
 - G. For such other and further relief as the Court deems just and proper.

Dated: May 18, 2010

By: <u>/s/ David E. Killough</u> David E. Killough

T. ANDREW CULBERT (SBN 35925) andycu@microsoft.com DAVID E. KILLOUGH (SBN 40185) daykill@microsoft.com

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