

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

Vertical Computer Systems, Inc.,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 2:07-cv-144
v.	§	
	§	JURY TRIAL DEMANDED
Microsoft Corporation,	§	
	§	
Defendant.	§	

ORIGINAL COMPLAINT

Plaintiff Vertical Computer Systems, Inc. ("Vertical") brings this action against Defendant Microsoft Corporation ("Microsoft") alleging as follows:

I. PARTIES

1. Plaintiff Vertical is a Delaware corporation with a principal place of business in Fort Worth, Texas.

2. Defendant Microsoft is a Washington corporation and has its principal place of business at One Microsoft Way, Redmond, Washington. Microsoft is doing business in this judicial district and may be served with process through its Registered Agent, Corporation Service Company located at 701 Brazos Street, Suite 1050, Austin, Texas 78701.

II. JURISDICTION AND VENUE

3. Vertical's patent infringement action arises under the patent laws of the United States, including 35 U.S.C. §§ 271 and 281. This Court has exclusive subject matter jurisdiction over this civil action under 28 U.S.C. § 1338(a).

4. Microsoft has minimum contacts with the Marshall Division of the Eastern District of Texas such that this venue is a fair and reasonable one. Microsoft has been sued and

defended numerous lawsuits in this judicial district and has also committed such purposeful acts and/or transactions in Texas that it reasonably knew and expected would result in it being brought into a Texas court as a consequence of its business activities. Microsoft has transacted, and at the time of the filing of this Complaint is transacting, business within the Marshall Division of the Eastern District of Texas. For these reasons, venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

III. PATENT INFRINGEMENT

5. On November 30, 2004, United States Patent No. 6,826,744 (the “‘744 patent”) was duly and legally issued for a “System and Method for Generating Web Sites in an Arbitrary Object Framework.” A true and correct copy of the ‘744 patent is attached hereto as Exhibit “A” and made a part hereof.

6. Vertical is the owner of the ‘744 patent and has standing to sue for infringement.

7. Microsoft manufacturers, has made, uses, sells and/or offers for sale software such as the Microsoft.Net development platform that, when used, is covered by at least claims 1-5, 9, 11, 17-19, 21, 23, 25-29, 33, 39-41, 43, 45, 47, and 48 of the ‘744 patent. Microsoft has also induced others to infringe and/or has contributorily infringed those claims of the ‘744 patent.

8. Vertical has placed the required statutory notice on all software products sold by it under the ‘744 patent.

9. Further, Vertical has given written notice to Microsoft of the ‘744 patent by letter dated February 7, 2007 and, since that time, Microsoft has been willfully infringing the ‘744 patent.

10. Vertical has been damaged as a result of Microsoft's willfully infringing conduct and Microsoft is, thus, liable to Vertical in an amount that adequately compensates Vertical for Microsoft's infringement, which, by law, cannot be less than a reasonable royalty.

11. Microsoft will continue its infringement of the '744 patent unless enjoined by the Court. Microsoft's infringing conduct causes Vertical irreparable harm and will continue to cause such harm without the issuance of an injunction.

IV. JURY DEMAND

12. Vertical hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

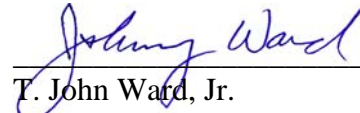
V. PRAYER FOR RELIEF

Vertical respectfully requests that the Court find in its favor and against Microsoft and that the Court grant Vertical the following relief:

- a. Judgment that one or more claims of United States Patent No. 6,826,744 have been infringed, either literally and/or under the doctrine of equivalents, by Microsoft and/or by others to whose infringement Microsoft has contributed and/or by other whose infringement has been induced by Microsoft;
- b. Judgment that Microsoft account for and pay to Vertical all damages to and costs incurred by Vertical because of Microsoft's infringing activities and other conduct complained of herein;
- c. That Vertical be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Microsoft's infringing activities and other conduct complained of herein;
- d. That this Court declare this an exceptional case and award Vertical its reasonable attorneys' fees and costs in accordance with 28 U.S.C. § 285;
- e. That Microsoft's infringement be found willful and that the Court award increased damages of three times the actual damages awarded;
- f. That Microsoft be permanently enjoined from any further activity or conduct that infringes any claims of United States Patent No. 6,824,744; and

- g. That Vertical be granted such other and further relief as the Court or jury may deem just and proper under the circumstances.

Respectfully Submitted,



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