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CBI : 09-129

February 25, 2009

By Hand Delivery

ORIGINAL

The Honorable Marilyn R. Abbott
Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112-A
Washington, D.C. 20436

Re: *In the Matter of Certain Portable Navigation Computing Devices and Associated Computer Software, Inv. No. 337-TA-___*

Dear Secretary Abbott:

Enclosed for filing on behalf of Microsoft Corporation ("Microsoft") please find a Complaint under Section 337 alleging the unlawful and unauthorized importation into the United States, sale for importation, and/or sale within the United States after importation of certain portable navigation computing devices and associated computer software that infringe valid and enforceable claims of U.S. Patent No. 6,175,789 ("the '789 patent"), U.S. Patent No. 7,054,745 ("the '745 patent"), U.S. Patent No. 5,579,517 ("the '517 patent"), U.S. Patent No. 5,758,352 ("the '352 patent"), and U.S. Patent No. 6,256,642 ("the '642 patent") (collectively, "the Microsoft Patents").

Please note that Confidential Exhibits 6, 9, 16, 17, 21, 23-25, and 28-30 contain confidential business information, and, pursuant to the Commission's Rules of Practice and Procedure, Complainant concurrently is making a separate request for confidential treatment of these documents.

Microsoft files this Complaint, Exhibits, and Appendices in accordance with 19 C.F.R. § 210.12. Accordingly, Microsoft submits the following documents:

1. One (1) original and twelve (12) copies of Microsoft's Confidential verified Complaint pursuant to 19 C.F.R. §§ 210.8 and 210.8(a)(ii);

2. Twelve (12) copies of the Non-confidential verified Complaint pursuant to 19 C.F.R. § 210.8(a)(i);

3. One (1) original and six (6) copies of the accompanying Confidential Exhibits 6, 9, 16, 17, 21, 23-25, and 28-30 pursuant to 19 C.F.R. § 210.8(a)(i));

4. One (1) original set and six (6) copies of the Non-confidential Exhibits 1-5, 7, 8, 10-15, 18-20, 22, 26, 27, and 31-34 pursuant to 19 C.F.R. § 210.8(a)(i));

5. Two (2) copies of the Confidential verified Complaint, two (2) copies of the Non-confidential verified Complaint, and two (2) copies of the Confidential and Non-confidential Exhibits for service upon the two (2) Proposed Respondents pursuant to 19 C.F.R. § 210.8(a)(iii);

6. One (1) copy of the Non-confidential verified Complaint for service upon the Royal Netherlands Embassy pursuant to 19 C.F.R. § 210.8(a)(iv);

7. One (1) certified copy of each of the Microsoft Patents (attached as Exhibits 3, 7, 10, 11, and 18) pursuant to 19 C.F.R. § 210.12(a)(9)(i);

8. One (1) certified copy of the recorded assignment of each of the Microsoft Patents to Microsoft (attached as Exhibits 4, 8, 12, 13, and 19) pursuant to 19 C.F.R. § 210.12(a)(9)(ii);

9. One (1) original "seal" copy and three (3) copies (in electronic format on CDs) of the certified prosecution history of the Microsoft Patents, provided in Appendices A-E pursuant to 19 C.F.R. § 210.12(c)(1); and

10. Four (4) copies (in electronic format on CDs) of each patent and applicable pages of each technical reference mentioned in the prosecution histories of the Microsoft Patents, provided in Appendices A-E pursuant to 19 C.F.R. § 210.12(c)(2).

Thank you for your assistance in this matter. Please contact us if you have any questions regarding this submission.

Sincerely,

Paul J. Zegger
Counsel for Microsoft Corp.

Enclosures

NON-CONFIDENTIAL VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of	)	
	)	Investigation No. _____
CERTAIN PORTABLE NAVIGATION COMPUTING DEVICES AND ASSOCIATED COMPUTER SOFTWARE	)	

VERIFIED COMPLAINT OF MICROSOFT CORPORATION UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED

Complainant

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Proposed Respondents

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I. INTRODUCTION

1. Complainant Microsoft Corporation ("Microsoft" or "Complainant") requests that the United States International Trade Commission ("the Commission") institute an investigation into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

2. This Complaint is based on Proposed Respondents' unlawful and unauthorized importation into the United States, sale for importation, and/or sale within the United States after importation of certain portable navigation computing devices and associated computer software. The accused products infringe at least one or more claims of U.S. Patent No. 6,175,789 ("the '789 patent"), U.S. Patent No. 7,054,745 ("the '745 patent"), U.S. Patent No. 5,579,517 ("the '517 patent"), U.S. Patent No. 5,758,352 ("the '352 patent"), and U.S. Patent No. 6,256,642 ("the '642 patent") (collectively, "the Microsoft Patents"). The Microsoft Patents are valid and enforceable United States Patents, the entire right, title, and interest in and to which Microsoft owns by assignment.

3. The '789 patent discloses and claims a vehicle computer system with an open computing platform capable of integrating and controlling various electronic components in the vehicle. The Proposed Respondents infringe at least claims 1 and 16 of the '789 patent. The '745 patent discloses and claims methods for generating clear and concise driving directions for use by, for example, navigation systems. The Proposed Respondents infringe at least claim 1 of the '745 patent. The '517 and '352 patents disclose systems and methods for implementing both long and short file names in the same file system. The Proposed Respondents infringe at least claims 1-4, 22, 26, 31, and 36 of the '517 patent and at least claims 1 and 12 of the '352 patent. The '642 patent discloses techniques for managing flash memory, including allocating and deallocating blocks of flash memory. The Proposed Respondents infringe at least claim 4 of the '642 patent.

4. Proposed Respondents' activities with respect to the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of certain portable navigation computing devices and associated computer software, described more fully, *infra*, are unlawful under 19 U.S.C. § 1337(a)(l)(B)(ii), in that they constitute infringement of the valid and enforceable Microsoft Patents.

5. Microsoft seeks relief from the Commission in the form of an order permanently excluding from entry into the United States Proposed Respondents' infringing portable navigation computing devices and associated computer software. Microsoft further seeks a cease and desist order halting the importation, sale, offer for sale, advertising, or soliciting of portable navigation computing devices, computer software, and other products by Proposed Respondents and their related companies that infringe Microsoft's valid and enforceable United States patents.

II. THE PARTIES

A. Complainant

6. Complainant Microsoft Corporation is a Washington corporation having its principal place of business at One Microsoft Way, Redmond, Washington 98052.

7. Founded in 1975, Microsoft is a worldwide leader in computer software, services, and solutions for businesses and consumers. Microsoft does business throughout the world and has offices in more than 100 countries.

8. Microsoft generates revenue by, *inter alia*, developing and licensing a wide range of software products for many computing devices. These software products include operating systems for servers, personal computers, and intelligent devices; server applications for distributed computing environments; information worker productivity applications; business solution applications; high-performance computing applications; software development tools; operating systems for automotive applications; and various navigation-related software products and services.

9. Among the operating systems developed, licensed, and supported by Microsoft are Windows XP and Windows Vista (collectively, "Windows Client"). Windows XP is an operating system developed for personal computers and first introduced in 2001 by Microsoft; Windows Vista is the successor to Windows XP.

10. Among the operating systems developed, licensed, and supported by Microsoft are several intended for embedded systems. One of these operating systems is Windows Embedded CE. Windows Embedded CE combines an advanced, real-time embedded operating system with powerful tools for rapidly creating smart, connected, small-footprint devices.

Developers use Windows Embedded CE for a variety of smart, connected, and service-oriented devices, ranging from power-conscious GPS handhelds to real-time, mission-critical industrial controllers.

11. Microsoft also develops, licenses, and supports various navigation-related software products and services, including Microsoft MapPoint. MapPoint makes it easy to visualize business information on maps, illustrate points on maps, and integrate maps into Microsoft Office documents.

12. Microsoft develops and licenses products and services for use in various vehicles and by the automotive industry. The products and services deliver reliable, easy-to-implement, and cost-effective in-car "infotainment" solutions to help carmakers and suppliers lower costs and distinguish themselves in the marketplace. Award-winning Microsoft Auto and Windows Automotive software enables Microsoft industry partners to connect drivers with a wide range of devices and technology while on the go, including hands-free communication, mobile device integration, and digital audio. SYNC, a product offered in select Ford automobiles, is based on Microsoft Auto, and is a fully-integrated, in-car communications and entertainment system that empowers drivers with hands-free, voice-activated control over their mobile phones and digital music players. These solutions provide an open, standardized platform, helping carmakers and suppliers reduce costs and development time while still enabling creative, unique implementations to be developed.

13. Copies of Microsoft's Form 10-K for 2008 and Form 10-Q for the first and second quarters of 2009 are attached hereto as Exhibit 1A-C. Microsoft had substantial sales in the United States over the past three years, totaling over $155 billion dollars.

14. In fiscal year 2008, Microsoft sold or licensed more than US $60 billion worth of products and services, many of which practice the Microsoft Patents (*e.g.*, Windows XP, Windows Vista, Microsoft MapPoint, Windows CE, *etc.*). On average, Microsoft invests roughly 15% of its yearly revenue in product research and development, with over US $8 billion invested in fiscal year 2008. Between fiscal years 2006 and 2008, Microsoft's annual investment in research and development averaged US $7.3 billion. A portion of Microsoft's prior research and development effort resulted in the Microsoft Patents. As of the end of fiscal year 2008,

Microsoft's research and development had resulted in a patent portfolio of more than 44,000 issued and pending patents worldwide (over 23,000 issued U.S. patents and pending applications).

15. Microsoft's continued success depends largely on its ability to establish, maintain, and protect its proprietary technology through, *inter alia*, enforcement of its patent rights.

B. **Proposed Respondents**

16. On information and belief, Respondent TomTom N.V. is a Dutch corporation organized and existing under the laws of the Netherlands, having a principal place of business at Rembrandtplein 35, Amsterdam 1017 CT, Netherlands.

17. TomTom N.V. advertises itself as "a digital mapping and routing company that focuses on car navigation." *See* "About TomTom", available at *http://investors.tomtom.com/overview.cfm* (attached as Exhibit 2). TomTom N.V. has offices in 17 locations in Europe, North America, Asia, and Australia and its products are sold in 30 countries. *See id.* TomTom N.V. is a vendor and supplier of portable navigation computing devices and software for use on personal digital assistants (PDAs) and smartphones. TomTom N.V. markets and sells these products worldwide through its channel business partners and various retail companies, both at retail stores, through the websites of retail companies, and on its own website.

18. On information and belief, Respondent TomTom, Inc. is a corporation organized and existing under the laws of Massachusetts and is a wholly-owned subsidiary of TomTom N.V. TomTom, Inc.'s place of business is located at 150 Baker Ave Ext., Concord, Massachusetts 01742.

19. On information and belief, certain portable navigation computing devices and associated computer software that infringe the Microsoft Patents are manufactured for TomTom N.V. by third parties located in Asia. On information and belief, these infringing products are imported for sale (in various retail outlets and websites) in the United States by TomTom, Inc.

20. Other entities not yet identified and, thus, not yet specifically named as proposed respondents to this investigation (including possibly other producers as well as related and unrelated third-party customers of Proposed Respondents) may be engaged in the manufacture, widespread importation into the United States, sale for importation, and/or sale and/or use in the United States after importation of the certain portable navigation computing devices, computer software, and other products at issue in this Complaint that infringe the Microsoft Patents. The infringing activities of Proposed Respondents and any such third-party customers constitute unlawful acts under Section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337(a)(1)(B)(ii). Complainant may move to add one or more such producers or customers to this investigation should they, or the scope of their involvement with infringing activities, become identified later through discovery or otherwise.

III. BACKGROUND INFORMATION ON THE PRODUCTS AT ISSUE

21. The products at issue in this Complaint are portable navigation computing devices and associated computer software.

22. Portable navigation computing devices are electronic computing devices containing a Global Positioning System (GPS) receiver. By monitoring microwave signals sent by a constellation of satellites, a GPS receiver can determine its own velocity and location. A portable navigation computing device can use this velocity and location data as the basis for providing navigation information to the driver of a vehicle, including such information as driving directions.

23. In addition to a GPS receiver, the portable navigation computing devices in question contain a computer system and a touch-screen display. The computer system contains a processor and a memory for executing an operating system and software application programs, as well as one or more secondary storage devices to hold data (*e.g.*, application programs, navigation data, music, and user data).

24. The portable navigation computing devices in question run a version of the Linux operating system, which is a general purpose operating system capable of supporting a wide variety of software applications. For example, the Linux operating system on the portable

navigation computing devices executes a navigation application that uses the GPS data provided by the GPS receiver to generate driving directions.

25. The Linux operating system used in the portable navigation computing devices and/or the software applications supported by the operating system also provide the devices with additional functionality such as file system support for long and short file names, memory management for flash memory commonly used on such devices, and a platform for integrating and controlling various electronic components used with the portable navigation computing devices, such as other components in a vehicle.

IV. THE PATENTS AT ISSUE

A. 6,175,789

i. Identification of the Patent and Ownership by Microsoft

26. Microsoft owns by assignment the entire right, title, and interest in the '789 patent entitled "Vehicle Computer System With Open Platform Architecture," which issued on January 16, 2001. A certified copy of the patent is attached as Exhibit 3. Certified copies of the recorded assignments are attached as Exhibit 4.

27. Pursuant to Commission Rule 210.12(c)(1), a certified copy and three additional copies of the prosecution history of the '789 patent, as well as four copies of the applicable pages from each technical reference cited in the prosecution history, are attached in Appendix A.

ii. Non-technical Description of the Patented Invention[1]

28. The '789 patent relates to a vehicle computer system.

29. Modern vehicles contain a variety of electronic components, often including an audio system, a security system, a diagnostic system, a navigation system, and a communications system. Each of these systems offers utility to the driver but, prior to the '789 patent, each system was generally independent (requiring custom installation of a complete system, rather

[1] The text in this section (*i.e.*, "Non-technical Description of the Patented Invention") does not, and is not intended to, construe either the specification or the claims of the patent.

than a modular solution) and proprietary (running software that is incompatible with the other electronic systems).

30. The '789 patent addresses this incompatibility by disclosing a vehicle computer system with a modular and open computing platform capable of integrating and controlling electronic components in the vehicle. This vehicle computer system runs an open operating system that offers support for a variety of different software applications.

iii. **Foreign Counterparts to the '789 Patent**

31. Pursuant to Commission Rule 210.12(a)(9)(v), a list of all foreign patents and patent applications corresponding to the '789 patent, including an indication of status, is attached as Exhibit 5.

iv. **Licensees Under the '789 Patent**

32. Pursuant to 19 C.F.R. § 210.12(a)(9)(iii), a list identifying each licensee under the '789 patent is attached as Exhibit 6 (Confidential).

B. **7,054,745**

i. **Identification of the Patent and Ownership by Microsoft**

33. Microsoft owns by assignment the entire right, title, and interest in the '745 patent entitled "Method and System For Generating Driving Directions," which issued on May 30, 2006. A certified copy of the patent is attached as Exhibit 7. Certified copies of the recorded assignments are attached as Exhibit 8.

34. Pursuant to Commission Rule 210.12(c), a certified copy and three additional copies of the prosecution history of the '745 patent, as well as four copies of the applicable pages from each technical reference cited in the prosecution history, are attached in Appendix B.

ii. **Non-technical Description of the Patented Invention**[2]

35. The '745 patent relates generally to navigation and route guidance. Specifically, the '745 patent describes ways to generate driving directions using a computer algorithm.

36. Before the '745 patent, driving directions generated by computer algorithms were based on a commercial database of streets and intersections and lacked a human driving perspective, instead simply tracking the various attributes (name, intersections, direction of travel) of each road. The directions that such algorithms generated often included extraneous, confusing, or redundant directions. For instance, when two turns were close together, directions generated by these algorithms would list the two turns separately. A driver, reading or hearing these directions one at a time, could miss the second turn.

37. The '745 patent describes an innovative method capable of presenting clear and concise directions, reliably generated by a computer algorithm, with a human "driving perspective." The '745 patent accomplishes this method by combining instructions based on such factors as distance between instructions and the number of words in the instruction.

iii. **Foreign Counterparts to the '745 Patent**

38. No foreign patent application corresponding to the '745 patent has been filed, abandoned, rejected, or remains pending.

iv. **Licensees Under the '745 Patent**

39. Pursuant to 19 C.F.R. § 210.12(a)(9)(iii), a list identifying each licensee under the '745 patent is attached as Exhibit 9 (Confidential).

C. **5,579,517 & 5,758,352**

i. **Identification of the Patents and Ownership by Microsoft**

40. Microsoft owns by assignment the entire right, title, and interest in the '517 patent entitled "Common Name Space For Long And Short File Names," which issued on November 26, 1996. The '517 patent was the subject of reexamination proceedings in the U.S. Patent and

[2] The text in this section (*i.e.*, "Non-technical Description of the Patented Invention") does not, and is not intended to, construe either the specification or the claims of the patent.

Trademark Office. The U.S. Patent and Trademark Office issued a reexamination certificate for the '517 patent on November 28, 2006. Microsoft owns by assignment the entire right, title and interest in the '352 patent entitled "Common Name Space For Long And Short File Names," which issued on November 26, 1996. The '352 patent was the subject of reexamination proceedings in the U.S. Patent and Trademark Office. The U.S. Patent and Trademark Office issued a reexamination certificate for the '352 patent on October 10, 2006. Certified copies of the '517 patent and reexamination certificate are attached as Exhibit 10A-B, and certified copies of the '352 patent and reexamination certificate are attached as Exhibit 11A-B. Certified copies of the recorded assignments of the '517 and '352 patents are attached as Exhibits 12A-B and 13.

41. Pursuant to Commission Rule 210.12(c), a certified copy and three additional copies of the prosecution histories of the '517 and '352 patents and their reexamination file histories, as well as four copies of the applicable pages from each technical reference cited in the prosecution histories, are attached in Appendices C (for the '517 patent) and D (for the '352 patent).

ii. Non-technical Description of the Patented Inventions[3]

42. The '517 and '352 patents relate to the field of computer operating systems, file systems, and file names. Specifically, they relate to implementing both long and short file names in the same file system.

43. A file system is a method for organizing, storing, retrieving, navigating, and accessing data. One common example is the FAT16 file system, used by MS-DOS and early versions of the Windows operating systems. This file system organizes data hierarchically as sets of "folders" (or "directories") and "files." A "file name" is the descriptor used to identify a file and is stored (in the FAT16 system) in a "directory entry" on disk.

44. File systems enforce a limit on the length of file names, with some file systems allowing only very short file names. For instance, in the FAT16 file system, a file name can be no more than 11 characters long. This limitation often prevents users from being able to give their files sufficiently descriptive names.

[3] The text in this section (*i.e.*, "Non-technical Description of the Patented Invention") does not, and is not intended to, construe either the specification or the claims of the patent.

45. The '517 and '352 patents describe an innovative system that both supports long file names and maintains compatibility with file name systems and applications that are aware of only short file names. This compatibility is achieved by creating a short file name based on a portion of a long file name (which cannot exceed the maximum number of characters supported by the short file name system or application) in a directory entry for the file, with one or more additional directory entries holding the long file name. These additional directory entries are hidden from the short file name system via various attribute fields, but are visible to the long file name system.

46. Using the system described in the '517 and '352 patents, a short file name system can read the directory entry containing the short file name but will ignore the directory entry (or entries) containing the long file name. A long file name system can access and manipulate these long file names and do so in such a way as to ensure compatibility with the short file name system.

iii. **Foreign Counterparts to the '517 and '352 Patents**

47. Pursuant to Commission Rule 210.12(a)(9)(v), lists of all foreign patents and patent applications corresponding to the '517 and '352 patents, including an indication of status, are attached as Exhibits 14 and 15.

iv. **Licensees Under the '517 and '352 Patents**

48. Pursuant to 19 C.F.R. § 210.12(a)(9)(iii), lists identifying each licensee under the '517 and '352 patents are attached as Exhibits 16 (Confidential) and 17 (Confidential).

D. **6,256,642**

i. **Identification of the Patent and Ownership by Microsoft**

49. Microsoft owns by assignment the entire right, title, and interest in the '642 patent entitled "Method and System For File System Management Using A Flash-Erasable, Programmable, Read-Only Memory," which issued on July 3, 2001. A certified copy of the patent is attached as Exhibit 18. Certified copies of the recorded assignments are attached as Exhibit 19.

50. Pursuant to Commission Rule 210.12(c), a certified copy and three additional copies of the prosecution history of the '642 patent, as well as four copies of the applicable pages from each technical reference cited in the prosecution history, are attached in Appendix E.

ii. Non-technical Description of the Patented Invention[4]

51. The '642 patent relates to the field of managing files stored on block-erasable flash memory. Flash memory is used in a variety of portable computing devices, including portable navigation devices, digital music players (*e.g.*, "MP3" players), mobile phones, digital cameras, portable drives (*e.g.*, "thumb drives" or "USB drives"), and laptop computers.

52. Flash memory is a solid-state, non-volatile storage device. Solid-state storage devices lack moving parts and are, therefore, more resistant to shock than conventional magnetic hard drives. Non-volatile storage devices do not require power to preserve the information stored within them. Volatile devices, by contrast, lose information stored in them when they are disconnected from power. For instance, the random access memory (RAM) in a laptop or a desktop computer is volatile memory and loses any information it contains when the computer is turned off.

53. In flash memory, information is stored in a binary format in an array of transistor "cells." Binary data is a collection of bits, each bit representing either a 0 or a 1. Each cell in the flash memory array represents a bit, with the "value" of 0 or 1.

54. Block-erasable flash memory, however, cannot simply "erase" or "reset" individual cells. Instead, a negative charge must be applied to an entire "block" of cells. That is, for a single cell to be changed from a 0 to a 1, an entire section of the flash memory must be "reset" to the initial "1" state. Depending on how a particular flash memory device is designed, the device may contain a single block (and thus, the entire device would have to be erased in order to change a single 0 back to a 1) or multiple blocks that may be reset independently of the others.

[4] The text in this section (*i.e.*, "Non-technical Description of the Patented Invention") does not, and is not intended to, construe either the specification or the claims of the patent.

55. In contrast to flash memory devices, conventional non-volatile storage devices, such as magnetic disks, are able to change a 0 to a 1 without an intermediate erase step (though they can only read and write data in blocks). As these devices can change a particular bit from 0 to 1 and 1 to 0 an effectively unlimited number of times, they are termed "multiple-write." By way of contrast, flash memory is "single-write."

56. File systems are the part of an operating system that manages files on a storage device. A common way of managing files is to use a hierarchical structure, often referred to as "folders" or "directories." These directories contain files and often other directories or subdirectories.

57. These traditional file systems were designed for "multiple-write" devices rather than "single-write" devices such as flash memory. The '642 patent describes a file system that supports the byte-addressable and block-erasable nature of flash memory, while providing support for a file system offering the functionality of traditional file systems.

iii. **Foreign Counterparts to the '642 Patent**

58. Pursuant to Commission Rule 210.12(a)(9)(v), a list of all foreign patents and patent applications corresponding to the '642 patent, including an indication of status, is attached as Exhibit 20.

iv. **Licensees Under the '642 Patent**

59. Pursuant to 19 C.F.R. § 210.12(a)(9)(iii), a list identifying each licensee under the '642 patent is attached as Exhibit 21 (Confidential).

V. THE DOMESTIC INDUSTRY

60. The domestic industry affected by Proposed Respondents' unfair acts and unfair methods of competition includes the activities, facilities, and resources of Microsoft in the United States. In accordance with the provisions of 19 U.S.C. §§ 1337(a)(2)–(3), an industry exists in the United States in connection with each of the Microsoft Patents.

61. An exemplary Microsoft product that practices the '789 patent is Microsoft Auto. A claim chart applying representative Claim 1 of the '789 patent to Microsoft Auto is attached as

Exhibit 22. Microsoft's domestic activities in connection with Microsoft Auto include significant investment in plant and equipment, significant employment of labor and capital, and substantial investment in the exploitation of the '789 patent through the research and development of Microsoft Auto. These investments are set forth in Exhibit 23 (Confidential).

62. An exemplary Microsoft product that practices the '745 patent is MapPoint 2009 ("MapPoint"). A claim chart applying representative Claim 1 of the '745 patent to MapPoint is attached as Exhibit 24 (Confidential). Microsoft's domestic activities in connection with MapPoint include significant investment in plant and equipment, significant employment of labor and capital, and substantial investment in the exploitation of the '745 patent through the research and development of MapPoint. These investments are set forth in Exhibit 25 (Confidential).

63. Exemplary Microsoft products that practice the '517 and '352 patents are Windows Vista and Windows XP ("Vista" and "XP", respectively). Claim charts applying representative Claim 22 of the '517 patent and Claim 1 of the '352 patent to Vista and XP are attached as Exhibits 26 and 27, respectively. Microsoft's domestic activities in connection with Vista and XP include significant investment in plant and equipment, significant employment of labor and capital, and substantial investment in the exploitation of the '517 and '352 patents through the research and development of Vista and XP. These investments are set forth in Exhibit 28 (Confidential).

64. An exemplary Microsoft product that practices the '642 patent is Windows CE. A claim chart applying representative Claim 4 of the '642 patent to Windows CE is attached as Exhibit 29 (Confidential). Microsoft's domestic activities in connection with Windows CE include significant investment in plant and equipment, significant employment of labor and capital, and substantial investment in the exploitation of the '642 patent through the research and development of Windows CE. These investments are set forth in Exhibit 30 (Confidential).

VI. SPECIFIC INSTANCES OF IMPORTATION AND SALE

65. On information and belief, Proposed Respondents import, sell for importation, and/or sell within the United States after importation the Accused Products, as defined below.

66. The specific instances of importation of infringing portable navigation computing devices and accompanying software set forth below are representative examples of Proposed Respondents' unlawful importation of infringing products.

67. On information and belief, the TomTom ONE 3rd Edition, ONE XLS, ONE XL, ONE 125, ONE 130, ONE 130S, XL 330, XL 330S, RIDER 2nd Edition, GO 720, GO 730, GO 930, and GO 930T are imported into the United States by or for Proposed Respondents (collectively, the "Accused Products").

68. The sales receipts for the Accused Products, purchased from retailers in the United States, are attached as Exhibit 31.

69. The Accused Products are marked as a product of China. On information and belief, the Imported Products are made for Proposed Respondents in China by a third party vendor. Photographs of the Imported Products and their packaging are attached as Exhibit 32.

70. Microsoft believes that the Accused Products fall under one or more of the following classifications of the Harmonized Tariff Schedule of the United States: Heading No. 8471 ("Automatic data processing machines and units thereof"), *et seq.*, for instance Subheading No. 8471.30.0100 ("Portable automatic data processing machines, weighing not more than 10kg, consisting of at least a central processing unit, a keyboard and display") and Subheading No. 8471.41.0150 ("Other automatic data processing machines: Comprising in the same housing at least a central processing unit and an input and output unit whether or not combiner – other"); Heading No. 8526 ("Radar apparatus, radio navigational aid apparatus and radio remote control apparatus"), *et seq.*, for instance 8526.91.00 ("Radio navigational aid apparatus"); Heading No. 8523 ("Discs, tapes, solid-state non-volatile storage devices, 'smart cards' and other media for the recording of sound or of other phenomena, whether or not recorded, including matrices and masters for the production of discs, but excluding products of Chapter 37"), *et seq.*, for instance 8523.40.4000 ("Optical media for reproducing representations of instructions, data, sound, and image, recorded in a machine readable binary form, and capable of being manipulated or providing interactivity to a user, by means of an automatic data processing machine").

71. These above classifications are exemplary in nature and are not intended to restrict the scope of any exclusion order or other remedy ordered by the Commission.

VII. UNLAWFUL AND UNFAIR ACTS COMMITTED BY PROPOSED RESPONDENTS – PATENT INFRINGEMENT

72. On information and belief, Proposed Respondents unlawfully sell for importation, import, and/or sell after importation into the United States certain portable computing devices, including automobile navigation devices, and associated computer software that infringe the Microsoft Patents. Attached to the declarations in Exhibit 33A-B are claim charts that provide examples of how the claims of the Microsoft Patents read on the Accused Products, based on information discovered through investigation of the Accused Products. As identified in these claim charts, various of the Accused Products infringe at least: claims 1 and 16 of the '789 patent; claim 1 of the '745 patent; claims 1, 2, 3, 4, 22, 26, 31, and 36 of the '517 patent; claims 1 and 12 of the '352 patent; and claim 4 of the '642 patent.

73. The infringement allegations contained in this Complaint include direct infringement, as well as induced infringement. On information and belief, Proposed Respondents also knowingly induce others in the United States to use products covered by the Microsoft Patents and perform methods covered by certain claims of the Microsoft Patents.

74. Proposed Respondents' inducement of infringement includes, but is not limited to: (i) their knowledge of the asserted patents; (ii) their intent to induce direct infringement of the asserted patents; (iii) their knowingly aiding and abetting infringement, by providing an instruction manual and other directions that instruct the purchaser of an accused device to use the device, this use infringing the claims of the Microsoft Patents; and (iv) their actual or constructive knowledge that their actions induce infringement.

75. Proposed Respondents have received notice of the infringement asserted in this Complaint through, *inter alia*, a letter sent on [redacted], attached as Exhibit 34, and service of this Complaint.

VIII. RELATED LITIGATION

76. The United States Patent and Trademark Office Reexamination Case No. 90/007371 confirmed the validity of the '517 patent.

77. The United States Patent and Trademark Office Reexamination Case No. 90/007372 confirmed the validity of the '352 patent.

78. One of the foreign counterparts to the '517 and '352 patents (German Patent No. 69429378) is the subject of a pending German nullity action filed in 2006.

79. A protest was filed on September 24, 2004 against the Canadian counterpart to the '517 and '352 patents (Application No. 2120461); a notice of allowance issued on August 18, 2008. Another protest against this application, filed on September 16, 2008, is pending.

80. Other than the instances listed above, no other court or agency is currently involved with the Microsoft Patents, nor has any court or agency been in the past.

IX. RELIEF REQUESTED

81. WHEREFORE, by reason of the foregoing, Complainant Microsoft respectfully requests that the United States International Trade Commission:

(i) institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to the Proposed Respondents' violations of that section based on the importation into the United States, sale for importation, and/or the sale within the United States after importation of Proposed Respondents' accused products;

(ii) set a target date of no more than twelve months;

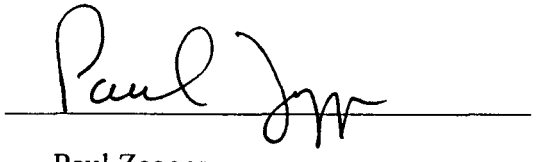
(iii) schedule and conduct a hearing on permanent relief pursuant to Section 337(c) for the purposes of receiving evidence and hearing argument concerning whether there has been a violation of Section 337, and following the hearing, to determine that there has been a violation of Section 337;

(iv) issue a permanent exclusion order, pursuant to 19 U.S.C. § 1337(d) forbidding entry into the United States of Proposed Respondents' products that infringe one or more claims of U.S. Patent Nos. 6,175,789; 7,054,745; 5,579,517; 5,758,352; and 6,256,642;

(v) issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), prohibiting the Proposed Respondents and related companies from engaging in the importation, sale for importation, marketing, distribution, offering for sale, the sale after importation of, or otherwise transferring within the United States products that infringe United States Patents Nos. 6,175,789; 7,054,745; 5,579,517; 5,758,352; and 6,256,642; and

(vi) issue such other and further relief as the Commission deems just and proper under the law, based upon the facts determined by the investigation and the authority of the Commission.

Executed: February 25, 2009



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