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

| | | |
|---|---|---|
| MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC, | § | |
| Plaintiff, | § | Civil Action No. 2:15-cv-2122 |
| v. | § | JURY TRIAL REQUESTED |
| MICROSOFT CORPORATION, | § | |
| Defendant. | § | |

**COMPLAINT**

Plaintiff Mobile Telecommunications Technologies, LLC ("MTel" or "Plaintiff") files this Complaint against Microsoft Corporation ("Microsoft") for infringement of U.S. Patent Nos. 5,809,428 (the "'428 Patent"), 5,754,946 (the "'946 Patent"), 5,581,804 (the "'804 Patent") and 5,894,506 (the "'506 Patent") pursuant to 35 U.S.C. § 271 and alleges as follows.

**THE PARTIES**

1. Plaintiff MTel is a Delaware limited liability company with its principal place of business at 1720 Lakepointe Drive, Suite 100, Lewisville, Texas 75057.

2. MTel is a wholly owned subsidiary of United Wireless Holdings, Inc. ("United Wireless"). In 2008, United Wireless, through another of its wholly owned subsidiaries, Velocita Wireless, LLC, purchased the SkyTel wireless network, including assets related to SkyTel's more than twenty-year history as a wireless data company. Velocita Wireless, LLC, continued to operate the SkyTel wireless data network after the acquisition. As a result of that transaction, United Wireless gained ownership and control over the business, operations and intellectual property portfolio, including patents developed by the SkyTel-related entities, including Mobile Telecommunication Technologies Corp. ("MTel Corp."). United Wireless

subsequently assigned certain patent assets, including the Patents-in-Suit, together with all rights of recovery related to those patents, to its wholly owned subsidiary, MTel, which is the licensing division of United Wireless and the plaintiff here.

3. MTel Corp. was a pioneer of two-way wireless data communications and in 1995 launched the first nationwide two-way wireless data messaging service, dubbed SkyTel 2-Way. Prior to that launch, in 1993, MTel Corp. received a Pioneer Preference award from the Federal Communications Commission for technological achievement in developing its wireless data network.

4. Upon information and belief, Microsoft Corporation is a Washington corporation which has a regular and established place of business in Texas. Microsoft may be served with process through its registered agent, Corporation Service Company, 211 East 7th Street, Suite 620, Austin, Texas 78701.

5. On information and belief, following the FCC's grant of a Pioneer Preference to MTel Corp, Microsoft and its founders, Bill Gates and Paul Allen, were strategic investors in the SkyTel 2-Way network, investing tens of millions in MTel Corp. in 1994 for a reported 8.5% stake in the company. On March 4, 1997 the Wall Street Journal reported that "Microsoft still is high on the potential of two-way pagers as transmitters of e-mail, news and sports. 'MTel is a company with innovative technology. They'll continue to be innovative until they get it right,' says Microsoft's treasurer, Gregory Maffei, an MTel director. He won't say if Microsoft—which owns $25 million of MTel notes as well as 3.2 million shares—would kick in more money. He couldn't confirm if Mr. Gates still owns MTel shares."[1] Because of its extensive investment and its access to information as a result of its seat on MTel's Corp.'s Board of

[1] Heard on the Street, WSJ, available as http://www.wsj.com/articles/SB857424126788098500 (last viewed Dec. 22, 2015).

Directors, Microsoft was keenly aware of MTel's operations and technology development, including its patented technologies that are issue in this case.

**JURISDICTION AND VENUE**

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a).

7. Venue lies in this judicial district pursuant to 28 U.S.C. §§1391(b)-(d) and 1400(b). Defendant has transacted business in this district and on information and belief has committed acts of infringement in this District. This Court has personal jurisdiction over Microsoft under the laws of the State of Texas, including the Texas long-arm statute, TEX. CIV. PRAC. & REM. CODE §17.042. Microsoft maintains consumer retail locations and corporate offices in Texas. Microsoft filed a declaratory patent lawsuit in this District captioned *Microsoft Corporation v. Charles E. Hill & Associates, Inc.*, No. 2:07-cv-478 (DF) (United States District Court for the Eastern District of Texas, Marshall Division). MTel's claims against Microsoft in this Complaint arise from or are connected with acts purposefully committed by Microsoft in Texas. Microsoft has conducted and continues to conduct business within the State of Texas, directly or through intermediaries or agents, or offers for sale, sells, or advertises (including through the provision of messaging services and interactive web pages) products or services, or uses or induces others to use products or services in Texas that infringe the '428 Patent, the '946 Patent, '804 Patent, and the '506 Patent or knowingly contributes to infringement of the '428 Patent, the '946 Patent, '804 Patent, and the '506 Patent. Thus, venue lies in this judicial district.

**THE PATENTS-IN-SUIT**

8. On Tuesday, September 15, 1998, the United States Patent and Trademark ("USPTO") duly and legally issued United States Patent No. 5,809,428, titled "Method and Device for Processing Undelivered Data Messages in a Two-Way Wireless Communications System," after a full and fair examination. A true and correct copy of the '428 Patent is attached hereto as Exhibit A. Plaintiff is the assignee of all right, title, and interest in and to the '428 Patent and possesses the exclusive right of recovery under the '428 Patent, including the exclusive right to recover for past and future infringement of the '428 Patent. The '428 Patent is valid and enforceable.

9. The '428 Patent was found valid and infringed at trial against Apple Inc. in this District.[2]

10. The '428 Patent describes and claims, among other things, methods, systems, and devices for storing undeliverable messages, such as e-mail messages.

11. On Tuesday, May 19, 1998, the USPTO duly and legally issued United States Patent No. 5,754,946 titled "Nationwide Communication System," after a full and fair examination. A true and correct copy of the '946 Patent is attached hereto as Exhibit B. Plaintiff is the assignee of all right, title and interest in and to the '946 Patent and possesses the exclusive right of recovery under the '946 Patent, including the exclusive right to recover for past and future infringement of the '946 Patent.

12. The '946 Patent describes and claims, among other things, devices and networks that provide for the transmission of unreceived portions of a message.

[2] Case 2:13-cv-00258-RSP (D.I. 65 Verdict Form) 11/17/14 (Exhibit E).

13. The ’946 Patent is valid and enforceable. The ’946 Patent was found valid and infringed at trial against Apple Inc. in this District.[3]

14. On Tuesday, December 3, 1996, the USPTO duly and legally issued United States Patent No. 5,581,804 titled “Nationwide Communications System,” after a full and fair examination. A true and correct copy of the ’804 Patent is attached hereto as Exhibit C. Plaintiff is the assignee of all right, title and interest in and to the ’804 Patent, including the exclusive right to recover for past and future infringement of the ’804 Patent. The ’804 Patent is valid and enforceable.

15. The ’804 Patent discloses and claims, *inter alia*, methods and systems for providing two-way communication of messages between a central network and a mobile unit over a relatively large area, and more particularly to such methods and systems for communicating messages which allow for rapid communication of large messages and efficient use of system resources.

16. On Tuesday, April 13, 1999, the USPTO duly and legally issued United States Patent No. 5,894,506 titled “Method and Apparatus for Generating and Communicating Messages Between Subscribers to an Electronic Messaging Network,” after a full and fair examination. A true and correct copy of the ’506 Patent is attached hereto as Exhibit D. Plaintiff is the assignee of all right, title and interest in and to the ’506 Patent, including the exclusive right to recover for past and future infringement of the ’506 Patent. The ’506 Patent is valid and enforceable.

17. The ’506 Patent was found valid at trial against Apple Inc. in this District.[4]

[3] Case 2:13-cv-00258-RSP (D.I. 65 Verdict Form) 11/17/14 (Exhibit E).

[4] Case 2:13-cv-00258-RSP (D.I. 65 Verdict Form) 11/17/14 (Exhibit E).

18. The ’506 Patent discloses and claims, *inter alia*, an electronic messaging network comprising a network operations center and message terminals, including memory for storing corresponding files of canned messages, also referred to herein as templated messages, and associated message codes, which improves message compression and conserves communications link capacity.

**INFRINGEMENT OF THE PATENTS-IN-SUIT**

19. Plaintiff reincorporates by reference Paragraphs 1 through 18 as though fully restated herein.

20. Microsoft, without authorization or license, has been and is now directly infringing literally or under the doctrine of equivalents, claims of the ’428 Patent, the ’946 Patent, the ’506 Patent, and the ’804 Patent (together, the “Patents-in-Suit”) in violation of 35 U.S.C. §271, as stated below. Microsoft’s infringement has been and will continue to be willful.

21. On November 17, 2014, MTel received a favorable jury verdict in *Mobile Telecomms. Techs., LLC v. Apple* No. 2:13-CV-258-RSP (E.D. Tex.). *See* Verdict attached as Exhibit E. The jury in that case found the features of accused Apple devices infringed some of the same Patents-in-Suit asserted here. Microsoft’s messaging devices and messaging services on information and belief contain similar features and perform similar functions as those found to be infringing in *Mobile Telecomms. Techs., LLC v. Apple*.

22. Several patents owned by Nokia or Microsoft evidence that Microsoft has been on notice of MTel’s SkyTel wireless communications technology and Patents-in-Suit for many years.[5] Microsoft’s United States Patent No. 6,052,735, filed Oct. 24, 1997, reads at col. 15, lines 24-27 (“Those transports may include, for instance, a POP3 transport, a Skytel paging

[5] Microsoft purchased Nokia in 2014.

transport, or any other commercially available transport. Such transports are typically supported by different applications in PIM 5."). Microsoft's United States Patent No. 5,537,415, filed Nov. 8, 1994 reads at col. 4, lines 15-18 ("For instance, the first radio channel could be at a paging frequency of around 931 MHz, currently allocated to nationwide paging services such as SkyTel of Jackson, Miss., ***") and at lines 45-50 ("In many cases, communication with primary network 12 will be unidirectional. However, paging networks planned by providers such as Destineer of Jackson, Miss., will in the future provide bi-directional capabilities using reserved time slot protocols.").[6] Nokia's United States Patent No. 7,177,593, filed Apr 3, 2001, cites directly to the '946 Patent in suit. Nokia's United States Patent No. 7,088,990, filed Oct. 30, 1998 cites directly to the '506 Patent in suit, showing that Microsoft was aware of the '506 Patent as of 1998.

**FIRST CLAIM FOR RELIEF**
**(INFRINGEMENT OF U.S. PATENT NO. 5,809,428)**

23. Plaintiff MTel reincorporates by reference Paragraphs 1 through 22 as though fully set forth herein.

24. Each and every claim of the '428 Patent is valid and enforceable and each claim enjoys a statutory presumption of validity separate, apart, and in addition to the statutory presumption of validity enjoyed by every other of its claims. 35 U.S.C. §282.

25. Microsoft, without authorization or license, has been and is now directly infringing, literally or under the doctrine of equivalents, Claims 1-3 and Claims 8-10 of the '428 Patent in violation of 35 U.S.C. §271. Microsoft and all end-users of Microsoft's networks and software, including Microsoft's messaging applications, as well as messaging applications

[6] Destineer was an affiliate of MTel Corp. and the original assignee on some MTel Patents.

for use on Microsoft networks, desktop software, mobile messaging software, or mobile operating systems are direct infringers of the ’428 Patent.

26. Microsoft directly infringes, literally or under the doctrine of equivalents, by making, using, selling, offering to sell, or importing “Microsoft Messaging Services.” “Microsoft Messaging Services” include messaging applications that rely on Microsoft operated, controlled, or licensed networks, operating systems, or software and that embody or practice any of Claims 1-3 or Claims 8-10 the ’428 Patent. These messaging applications include, but are not limited to, Microsoft Office, Microsoft Exchange, Microsoft Outlook, Microsoft Messaging, Microsoft Hotmail, and applications that provide XMPP-(or similar protocol) compliant messaging services (e.g., MMS text messaging services, XMPP-based messaging services, Windows Push Notification Services (WNS), and email services such as Microsoft Exchange, Hotmail, and other email and messaging applications provided by or through Microsoft, its subsidiary Microsoft Mobile, or its Windows Phone Store) (collectively “Microsoft Messaging Services”) that embody or practice any of Claims 1-3 or 8-10 of the ’428 Patent. These Microsoft Messaging Services are preinstalled and updated on mobile devices before delivery to the end-user or they are provided by or through, among others, the Windows Phone Store. Microsoft Messaging Services operate on multiple operating systems, including Windows Mobile and Windows Phone families of Microsoft developed mobile operating systems.

27. Microsoft also has infringed and does directly infringe, literally or under the doctrine of equivalents, and will continue to directly infringe Claims 1-3 and Claims 8-10 of the ’428 Patent in violation of 35 U.S.C. §271 by making, using, selling, offering to sell, or importing into the United States network operation centers (e.g., messaging servers or other networking components) for use with mobile units that utilize Microsoft Messaging Services.

28. By way of example only, Microsoft and end users, directly infringe Claims 1-3 and Claims 8-10 of the '428 Patent in violation of 35 U.S.C. §271 through use of the aforementioned Microsoft Messaging Services on any of the following devices:[7] HTC One M8, HTC 8XT, Nokia Lumia 2520, Nokia Lumia 1520, Nokia Lumia 1320, Nokia Lumia 630, Nokia Lumia 635, Nokia Lumia ICON, Nokia Lumia 1020, Nokia Lumia 928, Nokia Lumia 925, Nokia Lumia 920, Nokia Lumia 830, Nokia Lumia 822, Nokia Lumia 820, Nokia Lumia 530, Nokia Lumia 521, Nokia Lumia 520, Windows Phone 8XT, Windows Phone 8X, Samsung ATIV SE, Samsung ATIV S Neo, Samsung ATIV Odyssey, Samsung ATIV Smart PC Pro, Samsung ATIV Tab 3, Samsung Series 7, Huawei W1, BLU Win HD, Surface Pro 3, Surface 2, Surface Pro, Surface, HP Pro x2, HP Pavilion X2, HP Pavilion, HP Omni O10, HP Ash, HP Stream 8, HP Stream 7, HP PRo 610, HP ElitePad 1000, HP ElitePad 900, HP ElitePad Mobile, HP EliteBook Revolve, HP Slate, Toshiba Encore Mini, Toshiba Encore 2, Toshiba Satellite Radius, Toshiba WT310, Asus VivoTab 8, Asus VivoTab Note 8, Asus VivoTab Smart, Asus Transformer Book, Asus Transformer Pad, Asus TF600T-B1-GR, Dell XPS 10, Dell Tablet Pro 8, Dell Venue 11 Pro, Dell Venue 8 Pro, Dell Inspiron 13, Dell Inspiron 11, Dell Latitude 10, Dell Latitude ST, Lenovo ThinkPad 10, Lenovo ThinkPad 8, Lenovo ThinkPad Yoga, Lenovo Twist S230U, Lenovo Flex 2, Lenovo IdeaTab Miix 2, Lenovo Miix 2, Acer W3-810, Acer P, Acer Iconia, Acer Aspire Switch 11, Acer Aspire Switch 10, Acer TravelMate, Acer Tablet NT, Panasonic Toughpad, Panasonic Toughbook, Fujitsu Stylistic Q572, Fujitsu Stylistic Q704, Fujitsu Stylistic Q702, Fujitsu Lifebook, Quantum View, NeuTab, Nextbook, Vulcan Excursion X Net, Vulcan Challenger II, Winbook Tw801, Winbook Tw800, Winbook Tw100, CHUWI VX8, Hipstreet 7,

[7] This list is not, and is not intended to be, exhaustive. Any wireless device that has the capability of operating any of the Microsoft Messaging Services has the potential to be an instrument of infringement of Claims 1-3 and 8-10 of the '428 Patent.

Ematic, Contixo I80, Dragon 10.1, MeeGo Pad, Stouch Tablet PC, Azend Envzen, Ramos i10 Pro, Ramos i8 Pro, IVIEW-785QW, ADDAO-8. These are offered merely as exemplary.

29. The manufacture, use, sale, offer for sale, or importing of the Microsoft Messaging Services directly infringes the apparatus Claims 1-3 of the ’428 Patent.

30. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a Microsoft network operations center for transmitting and receiving messages to and from a wireless mobile unit.

31. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a means for transmitting messages to a mobile unit.

32. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of means for receiving acknowledgment messages from a mobile unit.

33. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a means for determining whether an acknowledgment message is an acknowledgment to a data message or an acknowledgment to a probe message.

34. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a means for transmitting a probe message to the mobile unit if, after transmitting a data message to the mobile unit, no data acknowledgment message is received.

35. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a means for marking a data message as undelivered.

36. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a means for storing an undelivered data message if, after transmitting a probe message to a mobile unit, no probe acknowledgment message is received.

37. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a means for receiving registration messages from a mobile unit.

38. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a means for automatically transmitting undelivered data messages to a mobile unit upon receiving a registration message from the mobile unit.

39. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a means for allowing dial-in access to undelivered data messages by a subscriber to retrieve an undelivered data message.

40. The use of the Microsoft Messaging Services also directly infringes the methods of Claims 8-10 of the ’428 Patent.

41. On information and belief, the operation of Microsoft Messaging Services includes the processing of data messages that cannot be successfully transmitted from a network operations center to a wireless mobile unit.

42. On information and belief, the operation of Microsoft Messaging Services includes the transmitting of data messages from a network operations center to a mobile unit.

43. On information and belief, the operation of Microsoft Messaging Services includes receiving at a network operations center a data acknowledgment message from a mobile unit that acknowledges receipt of the data message sent by the network operations center.

44. On information and belief, the operation of Microsoft Messaging Services includes transmitting a probe message from a network operations center to a mobile unit if, after transmitting a data message to a mobile unit, no data acknowledgment message is received at the network operations center.

45. On information and belief, the operation of Microsoft Messaging Services includes marking at a network operations center a data message as undelivered if, after transmitting a probe message to a mobile unit, no probe acknowledgment message is received at the network operations center.

46. On information and belief, the operation of Microsoft Messaging Services includes storing at a network operations center an undelivered data message.

47. On information and belief, the operation of Microsoft Messaging Services includes transmitting undelivered data messages from a network operations center to a mobile unit upon receiving at the network operations center a registration message from the mobile unit.

48. On information and belief, the operation of Microsoft Messaging Services includes giving users remote access to the stored messages.

49. The Microsoft Messaging Services have no substantially non-infringing uses other than to operate as claimed in the ’428 Patent. Microsoft has had knowledge of MTel and its patents since 1994, including on information and belief the ’428 Patent since at least September 15, 1998. Microsoft’s (including Nokia’s) patent filings indicate its awareness of the ’428 Patent. Microsoft and its founders were substantial investors in MTel Corp. and Microsoft’s treasurer, a C-level executive, Gregory Maffei sat on MTel’s board in 1997. Therefore, Microsoft acts and will continue to act with an objectively high likelihood that its actions constitute infringement of a valid patent. Such actions demonstrates a deliberate and

conscious decision to infringe, or at least a reckless disregard of MTel's patent rights, entitling MTel to up to treble damages.

**SECOND CLAIM FOR RELIEF**
**(INFRINGEMENT OF U.S. PATENT NO. 5,754,946)**

50. Plaintiff MTel reincorporates by reference Paragraphs 1 through 49 as though fully set forth herein.

51. Each and every claim of the '946 Patent is valid and enforceable and each claim enjoys a statutory presumption of validity separate, apart, and in addition to the statutory presumption of validity enjoyed by every other of its claims. 35 U.S.C. §282.

52. Microsoft, without authorization or license, has been and is now directly infringing, literally or under the doctrine of equivalents, Claims 7-9 of the '946 Patent, in violation of 35 U.S.C. §271, as stated below.

53. Microsoft and all end-users of Microsoft's networks and software, including Microsoft's messaging applications, as well as messaging applications for use on Microsoft networks, desktop software, mobile messaging software, or mobile operating systems are direct infringers of the '946 Patent.

54. Microsoft directly infringes, literally or under the doctrine of equivalents, by making, using, selling, offering to sell, or importing "Microsoft Messaging Services." "Microsoft Messaging Services" include messaging applications that rely on Microsoft operated, controlled, or licensed networks, operating systems, or software and that embody or practice any of Claims 1-4 and 7-9 of the '946 Patent. These messaging applications include, but are not limited to, Microsoft Office, Microsoft Exchange, Microsoft Outlook, Microsoft Messaging, Microsoft Hotmail, and applications that provide XMPP-(or similar protocol) compliant messaging services (e.g., MMS text messaging services, XMPP-based messaging services,

Windows Push Notification Services (WNS), and email services such as Microsoft Exchange, Hotmail, and other email and messaging applications provided by or through Microsoft, its subsidiary Microsoft Mobile, or its Windows Phone Store) (collectively "Microsoft Messaging Services") that embody or practice any of Claims 1-4 and 7-9 of the '946 Patent. These Microsoft Messaging Services are often preinstalled or updated on mobile devices before delivery to the end-user or are provided by or through the Windows Phone Store. Microsoft Messaging Services operate on multiple operating systems including Windows Mobile and Windows Phone families of Microsoft developed mobile operating systems.

55. Microsoft also has infringed and does directly infringe, literally or under the doctrine of equivalents, and will continue to directly infringe Claims 1-4 and 7-9 of the '946 Patent in violation of 35 U.S.C. §271 by making, using, selling, offering to sell, or importing into the United States network operation centers (e.g., messaging servers or other networking components) for use with mobile units that utilize the Microsoft Messaging Services.

56. By way of example only, Microsoft and end users, directly infringe Claims 1-4 and 7-9 of the '946 Patent in violation of 35 U.S.C. §271 through use of the aforementioned Microsoft Messaging Services on any of the following devices:[8] HTC One M8, HTC 8XT, Nokia Lumia 2520, Nokia Lumia 1520, Nokia Lumia 1320, Nokia Lumia 630, Nokia Lumia 635, Nokia Lumia ICON, Nokia Lumia 1020, Nokia Lumia 928, Nokia Lumia 925, Nokia Lumia 920, Nokia Lumia 830, Nokia Lumia 822, Nokia Lumia 820, Nokia Lumia 530, Nokia Lumia 521, Nokia Lumia 520, Windows Phone 8XT, Windows Phone 8X, Samsung ATIV SE, Samsung ATIV S Neo, Samsung ATIV Odyssey, Samsung ATIV Smart PC Pro, Samsung ATIV Tab 3, Samsung Series 7, Huawei W1, BLU Win HD, Surface Pro 3, Surface 2, Surface Pro,

[8] This list is not, and is not intended to be, exhaustive. Any wireless device that has the capability of operating any of the Microsoft Messaging Services has the potential to be an instrument of infringement of Claims 7-9 of the '946 Patent.

Surface, HP Pro x2, HP Pavilion X2, HP Pavilion, HP Omni O10, HP Ash, HP Stream 8, HP Stream 7, HP PRo 610, HP ElitePad 1000, HP ElitePad 900, HP ElitePad Mobile, HP EliteBook Revolve, HP Slate, Toshiba Encore Mini, Toshiba Encore 2, Toshiba Satellite Radius, Toshiba WT310, Asus VivoTab 8, Asus VivoTab Note 8, Asus VivoTab Smart, Asus Transformer Book, Asus Transformer Pad, Asus TF600T-B1-GR, Dell XPS 10, Dell Tablet Pro 8, Dell Venue 11 Pro, Dell Venue 8 Pro, Dell Inspiron 13, Dell Inspiron 11, Dell Latitude 10, Dell Latitude ST, Lenovo ThinkPad 10, Lenovo ThinkPad 8, Lenovo ThinkPad Yoga, Lenovo Twist S230U, Lenovo Flex 2, Lenovo IdeaTab Miix 2, Lenovo Miix 2, Acer W3-810, Acer P, Acer Iconia, Acer Aspire Switch 11, Acer Aspire Switch 10, Acer TravelMate, Acer Tablet NT, Panasonic Toughpad, Panasonic Toughbook, Fujitsu Stylistic Q572, Fujitsu Stylistic Q704, Fujitsu Stylistic Q702, Fujitsu Lifebook, Quantum View, NeuTab, Nextbook, Vulcan Excursion X Net, Vulcan Challenger II, Winbook Tw801, Winbook Tw800, Winbook Tw100, CHUWI VX8, Hipstreet 7, Ematic, Contixo I80, Dragon 10.1, MeeGo Pad, Stouch Tablet PC, Azend Envzen, Ramos i10 Pro, Ramos i8 Pro, IVIEW-785QW, and ADDAO-8. These are offered merely as exemplary.

57. The manufacture, use, sale, offer for sale, or importing of any of the Microsoft Messaging Services directly infringes apparatus Claims 1-4, and 7-9 of the ’946 Patent.

58. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for receiving a radio frequency message from the network.

59. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a display for displaying said message.

60. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a switch actuatable to specify a portion of the displayed message for which a user desires retransmission from the communications network.

61. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for transmitting, only upon actuation of a switch, a signal to a communications network requesting retransmission of a specified portion of a message.

62. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for receiving a specified portion retransmitted from a communications network and for displaying the received specified portion on a display.

63. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for detecting errors in a received message, the display including means for highlighting errors when a message is displayed on a display.

64. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for receiving a radio frequency signal from a communication network including a retransmitted message and an error correcting code.

65. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for extracting a corrected message from a radio frequency signal.

66. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a signal transmitted by the transmitting means indicating to the network that the user has read the message.

67. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes the use of a communications network for transmitting radio frequency signals to a mobile unit.

68. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes receiving radio frequency signals from a mobile unit.

69. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a mobile unit that has a display.

70. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a mobile unit that has a switch to specify a portion of a message for which a user desires retransmission.

71. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for transmitting radio frequency signals containing a message to a mobile unit.

72. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for receiving, from a mobile unit, radio frequency signals representing a portion of a message that a user desires to be retransmitted.

73. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for retransmitting radio frequency signals containing a portion of a message to a mobile unit.

74. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for including an error correcting code in the radio frequency signals containing the message data.

75. On information and belief, the operation of Microsoft Messaging Services on wireless devices includes a means for transmitting a signal to a sender of a message indicating that a user has read the message.

76. The use of the Microsoft Messaging Services also directly infringes methods Claims 8-9 of the ’946 Patent.

77. On information and belief, the operation of Microsoft Messaging Services includes receiving at the mobile unit a radio frequency message.

78. On information and belief, the operation of Microsoft Messaging Services includes displaying a message on the mobile unit.

79. On information and belief, the operation of Microsoft Messaging Services includes receiving an indication of a portion of a displayed message for which a user desires retransmission.

80. On information and belief, the operation of Microsoft Messaging Services includes transmitting upon receipt of an indication, a signal requesting retransmission of an indicated portion of a message.

81. On information and belief, the operation of Microsoft Messaging Services includes receiving a retransmission of an indicated portion of a message.

82. On information and belief, the operation of Microsoft Messaging Services includes displaying a received retransmission of an indicated portion on a mobile unit.

83. On information and belief, the operation of Microsoft Messaging Services includes detecting errors in a received message.

84. On information and belief, the operation of Microsoft Messaging Services includes highlighting errors in a message on a mobile unit.

85. The Microsoft Messaging Services have no substantially non-infringing uses other than to operate as claimed in the ’946 Patent. Microsoft’s (including Nokia’s) patent filings indicate its awareness of the ’946 Patent. Microsoft and its founders were substantial investors in MTel Corp. and Microsoft has had knowledge of MTel and its patents since 1994, including on information and belief the ’946 Patent since at least May 19, 1998. Microsoft’s

treasurer Gregory Maffei sat on MTel Corp.'s board in 1997. Therefore, Microsoft acted and will continue to act with an objectively high likelihood that its actions constitute infringement of a valid patent. Such infringement demonstrates a deliberate and conscious decision to infringe, or at least a reckless disregard of MTel's patent rights, entitling MTel to up to treble damages.

**THIRD CLAIM FOR RELIEF**
**(INFRINGEMENT OF U.S. PATENT NO. 5,754,804)**

86. Plaintiff MTel reincorporates by reference Paragraphs 1 through 85 as though fully set forth herein.

87. Each and every claim of the '804 Patent is valid and enforceable and each claim enjoys a statutory presumption of validity separate, apart, and in addition to the statutory presumption of validity enjoyed by every other of its claims. 35 U.S.C. §282.

88. Microsoft, without authorization or license, has been and is now directly or indirectly infringing, literally or under the doctrine of equivalents, Claims 5-8 and 10 of the '804 Patent in violation of 35 U.S.C. §271, as stated below.

89. Microsoft and all end-users of Microsoft's networks and software, including Microsoft's messaging applications, as well as messaging applications for use on Microsoft networks, desktop software, mobile messaging software, or mobile operating systems are direct infringers of Claims 5-8 and 10 of the '804 Patent.

90. Microsoft directly infringes, literally or under the doctrine of equivalents, by making, using, selling, offering to sell, or importing "Microsoft Messaging Services." "Microsoft Messaging Services" include messaging applications that rely on Microsoft operated, controlled, or licensed networks, operating systems, or software and that embody or practice any of Claims 5-8 and 10 of the '804 Patent. These messaging applications include, but are not limited to, Microsoft Office, Microsoft Exchange, Microsoft Outlook, Microsoft Messaging,

Microsoft Hotmail, and applications that provide messaging services (e.g., MMS text messaging services, XMPP-based messaging services, Windows Push Notification Services (WNS), and email services such as Microsoft Exchange, Hotmail, and other email and messaging applications provided by or through Microsoft, its subsidiary Microsoft Mobile, or its Windows Phone Store) (collectively "Microsoft Messaging Services") that embody or practice any of Claims 5-8 and 10 of the '804 Patent. These Microsoft Messaging Services are preinstalled or updated on mobile devices before delivery to the end-user or are provided by or through the Windows Phone Store. Microsoft Messaging Services operates on multiple operating systems, including Windows Mobile and Windows Phone families of Microsoft developed mobile operating systems

91. Microsoft also has infringed and does directly infringe, literally or under the doctrine of equivalents, and will continue to directly infringe Claims 5-8 and 10 of the '804 Patent in violation of 35 U.S.C. §271 by making, using, selling, offering to sell, or importing into the United States network operation centers (e.g., messaging servers or other networking components) for use with mobile units that utilize the Microsoft Messaging Services.

92. By way of example only, Microsoft and end users, directly infringe Claims 5-8 and 10 of the '804 Patent in violation of 35 U.S.C. §271 through use of the aforementioned Microsoft Messaging Services on any of the following devices:[9] HTC One M8, HTC 8XT, Nokia Lumia 2520, Nokia Lumia 1520, Nokia Lumia 1320, Nokia Lumia 630, Nokia Lumia 635, Nokia Lumia ICON, Nokia Lumia 1020, Nokia Lumia 928, Nokia Lumia 925, Nokia Lumia 920, Nokia Lumia 830, Nokia Lumia 822, Nokia Lumia 820, Nokia Lumia 530, Nokia Lumia 521, Nokia Lumia 520, Windows Phone 8XT, Windows Phone 8X, Samsung ATIV SE, Samsung ATIV S Neo, Samsung ATIV Odyssey, Samsung ATIV Smart PC Pro, Samsung ATIV

[9] This list is not, and is not intended to be, exhaustive. Any wireless device that has the capability of operating any of the Microsoft Messaging Services has the potential to be an instrument of infringement of these claims of the '804 Patent.

Tab 3, Samsung Series 7, Huawei W1, BLU Win HD, Surface Pro 3, Surface 2, Surface Pro, Surface, HP Pro x2, HP Pavilion X2, HP Pavilion, HP Omni O10, HP Ash, HP Stream 8, HP Stream 7, HP Pro 610, HP ElitePad 1000, HP ElitePad 900, HP ElitePad Mobile, HP EliteBook Revolve, HP Slate, Toshiba Encore Mini, Toshiba Encore 2, Toshiba Satellite Radius, Toshiba WT310, Asus VivoTab 8, Asus VivoTab Note 8, Asus VivoTab Smart, Asus Transformer Book, Asus Transformer Pad, Asus TF600T-B1-GR, Dell XPS 10, Dell Tablet Pro 8, Dell Venue 11 Pro, Dell Venue 8 Pro, Dell Inspiron 13, Dell Inspiron 11, Dell Latitude 10, Dell Latitude ST, Lenovo ThinkPad 10, Lenovo ThinkPad 8, Lenovo ThinkPad Yoga, Lenovo Twist S230U, Lenovo Flex 2, Lenovo IdeaTab Miix 2, Lenovo Miix 2, Acer W3-810, Acer P, Acer Iconia, Acer Aspire Switch 11, Acer Aspire Switch 10, Acer TravelMate, Acer Tablet NT, Panasonic Toughpad, Panasonic Toughbook, Fujitsu Stylistic Q572, Fujitsu Stylistic Q704, Fujitsu Stylistic Q702, Fujitsu Lifebook, Quantum View, NeuTab, Nextbook, Vulcan Excursion X Net, Vulcan Challenger II, Winbook Tw801, Winbook Tw800, Winbook Tw100, CHUWI VX8, Hipstreet 7, Ematic, Contixo I80, Dragon 10.1, MeeGo Pad, Stouch Tablet PC, Azend Envzen, Ramos i10 Pro, Ramos i8 Pro, IVIEW-785QW, ADDAO-8. These are offered merely as exemplary.

93. On information and belief, the operation of Microsoft Messaging Services includes controlling a mobile transceiver which may communicate with a communication network controlled by a computer.

94. On information and belief, the operation of Microsoft Messaging Services includes a network including more than one base transmitter for transmitting messages to a mobile transceiver and base receiver for receiving messages from the mobile transceiver.

95. On information and belief, the operation of Microsoft Messaging Services includes a mobile transceiver that is capable of sending registration signals to be received by a

base receiver in a network to allow the network to identify the mobile transceiver's approximate location according to the location of the one or more base receivers that received the registration signals and being capable of sending a message acknowledgment signal when a mobile transceiver receives a message from the network to indicate successful delivery of the message.

96. On information and belief, the operation of Microsoft Messaging Services includes a network using received registration signals to determine a set of base transmitters to transmit a message to a mobile transceiver.

97. On information and belief, the operation of Microsoft Messaging Services includes storing in a network a number of registration signals from a mobile transceiver to the network during a first period of time and the number of messages successfully delivered to the mobile transceiver by the network during a period of time.

98. On information and belief, the operation of Microsoft Messaging Services includes processing a stored number of registration signals and number of messages successfully delivered to evaluate a likelihood that a registration signal from a mobile transceiver will not be used by the network to determine a set of base transmitters.

99. On information and belief, the operation of Microsoft Messaging Services includes sending a message to a mobile transceiver to disable the mobile transceiver's capability to transmit a registration signal if the likelihood exceeds a selected value.

100. On information and belief, the operation of Microsoft Messaging Services includes sending a registration signal from a mobile transceiver to a network when the mobile transceiver crosses zonal boundaries and the mobile transceiver's capability to transmit registration signals is enabled.

101. On information and belief, the operation of Microsoft Messaging Services includes sending a registration signal from a mobile transceiver to a network when the mobile transceiver returns to a coverage area of a communication network after being out of range for a period of time and the mobile transceiver's capability to transmit registration signals is enabled.

102. On information and belief, the operation of Microsoft Messaging Services includes sending a registration signal from the mobile transceiver to the network when power is first applied to a mobile transceiver and the mobile transceiver's capability to transmit registration signals is enabled.

103. On information and belief, the operation of Microsoft Messaging Services includes, in a computer controlled communication network for locating a mobile transceiver within a region of space, the region of space being divided into a plurality of zones with each zone serviced by at least one base transmitter and at least one base receiver, the network storing data corresponding to a zone where the mobile transceiver was last known to be located, transmitting a message signal by a base transmitter servicing a zone where the mobile transceiver was last known to be located.

104. On information and belief, the operation of Microsoft Messaging Services includes, in a computer controlled communication network for locating a mobile transceiver within a region of space, the region of space being divided into a plurality of zones with each zone serviced by at least one base transmitter and at least one base receiver, the network storing data corresponding to a zone where the mobile transceiver was last known to be located, transmitting a systemwide probe signal by a plurality of base transmitters servicing a plurality of zones if the mobile transceiver does not indicate receipt of the message signal from the base transmitter.

105. On information and belief, the operation of Microsoft Messaging Services includes, in a computer controlled communication network for locating a mobile transceiver within a region of space, the region of space being divided into a plurality of zones with each zone serviced by at least one base transmitter and at least one base receiver, the network storing data corresponding to a zone where the mobile transceiver was last known to be located, receiving the systemwide probe signal by the mobile transceiver.

106. On information and belief, the operation of Microsoft Messaging Services includes, in a computer controlled communication network for locating a mobile transceiver within a region of space, the region of space being divided into a plurality of zones with each zone serviced by at least one base transmitter and at least one base receiver, the network storing data corresponding to a zone where the mobile transceiver was last known to be located, transmitting an acknowledgment signal by the mobile transceiver in response to the received systemwide probe signal.

107. On information and belief, the operation of Microsoft Messaging Services includes, in a computer controlled communication network for locating a mobile transceiver within a region of space, the region of space being divided into a plurality of zones with each zone serviced by at least one base transmitter and at least one base receiver, the network storing data corresponding to a zone where the mobile transceiver was last known to be located, receiving the acknowledgment signal from the mobile transceiver by a base receiver.

108. On information and belief, the operation of Microsoft Messaging Services includes, in a computer controlled communication network for locating a mobile transceiver within a region of space, the region of space being divided into a plurality of zones with each zone serviced by at least one base transmitter and at least one base receiver, the network storing

data corresponding to a zone where the mobile transceiver was last known to be located, updating the data stored in the network to reflect the zone of the base receiver that received the acknowledgment signal as the last known location of the mobile transceiver.

109. On information and belief, the operation of Microsoft Messaging Services includes, in a computer controlled communication network for locating a mobile transceiver within a region of space, the region of space being divided into a plurality of zones with each zone serviced by at least one base transmitter and at least one base receiver, the network storing data corresponding to a zone where the mobile transceiver was last known to be located, determining whether failure of the mobile transceiver to receive the message transmitted is likely caused by the mobile unit being located in a weak signal area within a zone.

110. On information and belief, the operation of Microsoft Messaging Services includes, in a computer controlled communication network for locating a mobile transceiver within a region of space, the region of space being divided into a plurality of zones with each zone serviced by at least one base transmitter and at least one base receiver, the network storing data corresponding to a zone where the mobile transceiver was last known to be located, retransmitting the message signal in the zone where the mobile transceiver was last known to be located using an error correcting code when the network determines that failure of the mobile transceiver to receive the message signal transmitted is likely caused by the mobile unit being located in the weak signal area within a zone.

111. The Microsoft Messaging Services have no substantially non-infringing uses other than to operate as claimed in the ’804 Patent. Microsoft’s (including Nokia’s) patent filings indicate its awareness of the ’804 Patent. Microsoft and its founders were substantial investors in MTel Corp. and Microsoft has had knowledge of MTel and its patents since 1994,

including on information and belief the '804 Patent since at least December 3, 1996. Microsoft's treasurer, Gregory Maffei, sat on MTel Corp.'s board in 1997. Therefore, Microsoft acted and will continue to act with an objectively high likelihood that its actions constitute infringement of a valid patent. Such infringement demonstrates a deliberate and conscious decision to infringe, or at least a reckless disregard of MTel's patent rights, entitling MTel to up to treble damages.

**FOURTH CLAIM FOR RELIEF**
**(INFRINGEMENT OF U.S. PATENT NO. 5,894,506)**

112. Plaintiff MTel reincorporates by reference Paragraphs 1 through 111 as though fully set forth herein.

113. Each and every claim of the '506 Patent is valid and enforceable and each claim enjoys a statutory presumption of validity separate, apart, and in addition to the statutory presumption of validity enjoyed by every other of its claims. 35 U.S.C. §282.

114. Microsoft, without authorization or license, has been and is now directly or indirectly infringing, literally or under the doctrine of equivalents, Claims 1-7 and Claims 15-21 of the '506 Patent in violation of 35 U.S.C. §271, as stated below.

115. Microsoft and all end-users of Microsoft's networks and software, including Microsoft's messaging applications, as well as messaging applications for use on Microsoft networks, desktop software, mobile messaging software, or mobile operating systems, including templated messaging services[10] ("Microsoft Messaging Services"), are direct infringers of Claims 1-7 and 15-21 of the '506 Patent.

116. Microsoft directly infringes, literally or under the doctrine of equivalents, by making, using, selling, offering to sell, or importing "Microsoft Messaging Services." "Microsoft Messaging Services" includes messaging applications that rely on Microsoft

[10] The calendar function in Microsoft Outlook is one example of templated messages.

operated, controlled, or licensed networks, operating systems, or software and that embody or practice any of Claims 1-7, or 15-21 of the ’506 Patent by using templated messages. These messaging applications include, but are not limited to, Microsoft Office, Microsoft Exchange, Microsoft Outlook, Microsoft Messaging, Microsoft Hotmail, and applications that provide XMPP-(or similar protocol) compliant messaging services (e.g., MMS text messaging services, XMPP-based messaging services, Windows Push Notification Services (WNS), and email services such as Microsoft Exchange, Hotmail, and other email and messaging applications provided by or through Microsoft, its subsidiary Microsoft Mobile, or its Windows Phone Store) (collectively “Microsoft Messaging Services”) that embody or practice any of Claim 1-7, or 15-21 of the ’506 Patent by using templated messages. These Microsoft Messaging Services are preinstalled or updated on mobile devices before delivery to the end-user or are provided by or through the Windows Phone Store. Microsoft Messaging Services operate on multiple operating systems, including Windows Mobile and Windows Phone families of Microsoft developed mobile operating systems.

117. Microsoft also has infringed and does directly infringe, literally or under the doctrine of equivalents, and will continue to directly infringe Claims 1-7 and 15-21 of the ’506 Patent in violation of 35 U.S.C. §271 by making, using, selling, offering to sell, or importing into the United States network operation centers (e.g., messaging servers or other networking components) for use with mobile units which utilize the Microsoft Messaging Services for templated messages.

118. By way of example only, Microsoft and end users, directly infringe Claim 1-7 and 15-21 of the ’506 Patent in violation of 35 U.S.C. §271 through use of the aforementioned

Microsoft Messaging Services using templated messages on any of the following devices:[11] HTC One M8, HTC 8XT, Nokia Lumia 2520, Nokia Lumia 1520, Nokia Lumia 1320, Nokia Lumia 630, Nokia Lumia 635, Nokia Lumia ICON, Nokia Lumia 1020, Nokia Lumia 928, Nokia Lumia 925, Nokia Lumia 920, Nokia Lumia 830, Nokia Lumia 822, Nokia Lumia 820, Nokia Lumia 530, Nokia Lumia 521, Nokia Lumia 520, Windows Phone 8XT, Windows Phone 8X, Samsung ATIV SE, Samsung ATIV S Neo, Samsung ATIV Odyssey, Samsung ATIV Smart PC Pro, Samsung ATIV Tab 3, Samsung Series 7, Huawei W1, BLU Win HD, Surface Pro 3, Surface 2, Surface Pro, Surface, HP Pro x2, HP Pavilion X2, HP Pavilion, HP Omni O10, HP Ash, HP Stream 8, HP Stream 7, HP Pro 610, HP ElitePad 1000, HP ElitePad 900, HP ElitePad Mobile, HP EliteBook Revolve, HP Slate, Toshiba Encore Mini, Toshiba Encore 2, Toshiba Satellite Radius, Toshiba WT310, Asus VivoTab 8, Asus VivoTab Note 8, Asus VivoTab Smart, Asus Transformer Book, Asus Transformer Pad, Asus TF600T-B1-GR, Dell XPS 10, Dell Tablet Pro 8, Dell Venue 11 Pro, Dell Venue 8 Pro, Dell Inspiron 13, Dell Inspiron 11, Dell Latitude 10, Dell Latitude ST, Lenovo ThinkPad 10, Lenovo ThinkPad 8, Lenovo ThinkPad Yoga, Lenovo Twist S230U, Lenovo Flex 2, Lenovo IdeaTab Miix 2, Lenovo Miix 2, Acer W3-810, Acer P, Acer Iconia, Acer Aspire Switch 11, Acer Aspire Switch 10, Acer TravelMate, Acer Tablet NT, Panasonic Toughpad, Panasonic Toughbook, Fujitsu Stylistic Q572, Fujitsu Stylistic Q704, Fujitsu Stylistic Q702, Fujitsu Lifebook, Quantum View, NeuTab, Nextbook, Vulcan Excursion X Net, Vulcan Challenger II, Winbook Tw801, Winbook Tw800, Winbook Tw100, CHUWI VX8, Hipstreet 7, Ematic, Contixo I80, Dragon 10.1, MeeGo Pad, Stouch Tablet PC, Azend Envzen, Ramos i10 Pro, Ramos i8 Pro, IVIEW-785QW, ADDAO-8. These are offered merely as exemplary.

[11] This list is not, and is not intended to be, exhaustive. Any wireless device that has the capability of operating any of the Microsoft Messaging Services for templated messages has the potential to be an instrument of infringement of Claims 1-7 and 15-21 of the '506 Patent.

119. The use of the Microsoft Messaging Services also directly infringes methods Claims 1-7 of the ’506 Patent.

120. On information and belief, the operation of Microsoft Messaging Services for templated messages includes maintaining, at a network operation center, a first file of canned messages and message codes respectively assigned to the canned messages.

121. On information and belief, the operation of Microsoft Messaging Services for templated messages includes maintaining at a first terminal of a first subscriber a second file of canned messages corresponding to the first file.

122. On information and belief, the operation of Microsoft Messaging Services for templated messages includes selecting an appropriate canned message from the second file for transmission to a second terminal of a designated second subscriber.

123. On information and belief, the operation of Microsoft Messaging Services for templated messages includes sending the message code assigned to the selected canned message to the network operation center.

124. On information and belief, the operation of Microsoft Messaging Services for templated messages includes retrieving the selected canned message from the first file using the message code received from the first terminal.

125. On information and belief, the operation of Microsoft Messaging Services for templated messages includes determining whether the second terminal can receive the canned message in a text form or message code form.

126. On information and belief, the operation of Microsoft Messaging Services for templated messages includes determining communicating the selected canned message to the second terminal in either message code form or text code form in response to the determination.

127. On information and belief, the operation of Microsoft Messaging Services for templated messages includes updating the first and second canned message files.

128. On information and belief, the operation of Microsoft Messaging Services for templated messages includes displaying the selected canned message at the second terminal.

129. On information and belief, the operation of Microsoft Messaging Services for templated messages includes adding a parameter to the canned message selected from the second file.

130. On information and belief, the operation of Microsoft Messaging Services for templated messages includes sending the added parameter with the assigned message code to the network operation center.

131. On information and belief, the operation of Microsoft Messaging Services for templated messages includes communicating the added parameter with the selected canned message to the second terminal.

132. On information and belief, the operation of Microsoft Messaging Services for templated messages includes displaying the selected canned message with the added parameter incorporated therein.

133. On information and belief, the operation of Microsoft Messaging Services for templated messages includes adding multiple response options to the canned message selected from the second file.

134. On information and belief, the operation of Microsoft Messaging Services for templated messages includes sending the added multiple response options with the assigned message code to the network operation center.

135. On information and belief, the operation of Microsoft Messaging Services for templated messages includes communicating the added multiple response options with the selected canned message to the second terminal.

136. On information and belief, the operation of Microsoft Messaging Services for templated messages includes in the displaying step including the step of displaying the selected canned message together with the added multiple response options.

137. On information and belief, the operation of Microsoft Messaging Services for templated messages includes selecting one of the multiple response options at the second terminal.

138. On information and belief, the operation of Microsoft Messaging Services for templated messages includes communicating the selected response option to the network routing the selected response option from the network operation center to the first terminal.

139. On information and belief, the operation of Microsoft Messaging Services for templated messages includes displaying the selected response option at the first terminal.

140. On information and belief, the operation of Microsoft Messaging Services for templated messages includes sending the added parameter to the network operation center together with the assigned message code and the multiple response options.

141. On information and belief, the operation of Microsoft Messaging Services for templated messages includes communicating the selected canned message, multiple response options, and added parameter to the second terminal.

142. On information and belief, the operation of Microsoft Messaging Services for templated messages includes displaying the selected canned message, added parameter, and multiple response options.

143. On information and belief, the operation of Microsoft Messaging Services for templated messages includes correspondingly updating the first and second canned message files.

144. The manufacture, use, sale, offer for sale, or importing of Microsoft Messaging Services also directly infringes apparatus Claims 15-21 of the ’506 Patent.

145. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a memory storing a file of canned messages in text form, each canned message having a unique, abbreviated message code assigned thereto.

146. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a receiver for receiving a message code from a calling terminal included in the network.

147. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a means responsive to the received message code for retrieving from the memory the canned message assigned thereto.

148. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a means for determining whether a receiving terminal in the network can receive the canned message in text form or message code form.

149. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a transmitter for transmitting the retrieved canned message in text form or message code form in response to the determining means.

150. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a means routing the received message code directly to the

transmitter upon determination that the receiving terminal can receive the canned message in message code form.

151. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a means for updating the canned message file stored in the memory and a corresponding canned message file stored in a memory in at least the calling terminal.

152. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a memory that stores a separate file of canned multiple response options having response codes respectively assigned thereto.

153. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a responsive means further including means for retrieving from the memory those canned multiple response options assigned to response codes received from the calling terminal by the receiver, the retrieved canned message and multiple response options being transmitted to the receiving terminal by the transmitter.

154. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a network operation center further including means for routing a selected canned multiple response option received from the receiving terminal to the calling terminal in either text or response code form.

155. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a memory storing a file of canned messages and message codes respectively assigned thereto and a file of canned multiple response options and response codes respectively assigned thereto.

156. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a means for retrieving the file of canned messages and the file of canned multiple response options from the memory.

157. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a display for displaying the canned messages and the multiple response options in the retrieved file.

158. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a means for selecting one of the canned messages and at least one of the multiple response options appropriate for the selected canned message for communication to a designated other message terminal.

159. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a transmitter for transmitting the message code assigned to the selected canned message and the response code assigned to the at least one multiple response option over a communications link of the network.

160. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a message terminal further including means for adding parameters to the selected canned message for inclusion with the assigned message code transmitted over the communications link.

161. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a memory storing a file of canned messages, and message codes respectively assigned thereto and a file of canned multiple response options and response codes respectively assigned thereto.

162. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a means for retrieving the file of canned messages and message codes from the memory.

163. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a display for displaying the canned messages in the retrieved file.

164. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a means for selecting one of the canned messages for communication to a designated other message terminal and for selecting multiple response options appropriate for the selected canned message.

165. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a message compiler for compiling the assigned message code and the response codes assigned to the selected multiple response options into a message for transmission by the transmitter.

166. On information and belief, the operation of Microsoft Messaging Services for templated messages includes a transmitter for transmitting the message code assigned to the selected canned message over a communications link of the network.

167. The Microsoft Messaging Services have no substantially non-infringing uses other than to operate as claimed in the ’506 Patent. Microsoft’s (including Nokia’s) patent filings indicate its awareness of the ’506 Patent. Microsoft and its founders were substantial investors in MTel Corp. and Microsoft has had knowledge of MTel and its patents since 1994, including on information and belief the ’506 Patent since at least April 13, 1999. Gregory Mattei, Microsoft’s treasurer, sat on the MTel board in 1997. Therefore, Microsoft acted and will continue to act with an objectively high likelihood that its actions constitute infringement of

a valid patent. Such infringement demonstrates a deliberate and conscious decision to infringe, or at least a reckless disregard of MTel's patent rights, entitling MTel to up to treble damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff MTel prays for the following relief:

A. That Microsoft be adjudged to have consciously and willfully infringed the Patents-in-Suit literally and under the doctrine of equivalents;

B. That Microsoft, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with any of them, be preliminarily and permanently restrained and enjoined from infringing the Patents-in-Suit;

C. That Plaintiff be awarded damages sufficient to compensate Plaintiff for Microsoft's infringement, pursuant to 35 U.S.C. §284;

D. That Microsoft be directed to pay Plaintiff pre-judgment and post-judgment interest and costs for Plaintiff bringing this lawsuit, in accordance with 35 U.S.C. §284;

E. That Microsoft be directed to pay enhanced damages, including Plaintiff's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

F. That Plaintiff receives such other and further relief as this Court may deem just or proper.

**DEMAND FOR JURY TRIAL**

Plaintiff respectfully demands a trial by jury of any and all issues triable of right before a jury.

Dated: December 31, 2015

Respectfully Submitted,

*/s/ Daniel R. Scardino*

Daniel R. Scardino
Texas State Bar No. 24033165
Craig S. Jepson
Texas State Bar No. 24061364
Raymond W. Mort
Texas State Bar No. 00791308
REED & SCARDINO LLP
301 Congress Avenue
Suite 1250
Austin, Texas 78701
Telephone: (512) 474-2449
Facsimile: (512) 474-2622
dscardino@reedscardino.com
cjepson@reedscardino.com
rmort@reedscardino.com

**ATTORNEYS FOR PLAINTIFF MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC**