

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ROSEBUD LMS, INC.	)	
	)	
Plaintiff,	)	
	)	Civil Action No. _____
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
MICROSOFT CORPORATION	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

For its Complaint, Plaintiff Rosebud LMS, Inc. ("Rosebud"), by and through the undersigned counsel, alleges as follows:

**THE PARTIES**

1. Rosebud is a Delaware corporation with a place of business at 155 East 77th Street 1A, New York, New York 10021.

2. Defendant Microsoft Corporation is a Washington corporation with, upon information and belief, a place of business located at One Microsoft Way, Redmond, Washington 98052.

3. Upon information and belief, Defendant has registered with the Delaware Secretary of State to conduct business in Delaware.

**JURISDICTION AND VENUE**

4. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

5. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

6. Upon information and belief, Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

7. Venue is proper in this district pursuant to §§ 1391(b), (c) and 1400(b).

### **BACKGROUND**

8. On November 5, 2014, United States Patent No. 8,578,280 (the "'280 patent"), entitled "Method and Software for Enabling N-Way Collaborative Work Over a Network of Computers" was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '280 patent is attached hereto as Exhibit A.

9. Rosebud is the assignee and owner of the right, title and interest in and to the '280 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

### **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,578,280**

10. Rosebud repeats and realleges the allegations of paragraphs 1 through 9 as if fully set forth herein.

11. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant is liable for infringement of at least claims 1 and 13 of the '280 patent by making, using, importing, offering for sale, and/or selling methods and products for collaboration over a network, including, but not limited to OneDrive for Business.

12. More specifically and upon information and belief, OneDrive for Business allows multiple users to co-author or edit a document in real-time, permitting collaboration over a

computer network. *See* <https://products.office.com/en-us/onedrive-for-business/top-features> (last accessed May 24, 2016); <https://blogs.office.com/2015/10/30/word-real-time-co-authoring-a-closer-look/#6Uv0JjlS4ouo4XK6.97> ("Co-Authoring") (last accessed May 24, 2016). OneDrive for Business includes Next Generation Sync Client, which intercepts data regarding user actions on a document that is being co-authored by multiple users and syncs the changes to the document caused by these user actions across all copies of the document being co-authored. For example, when a Word document is being co-authored the Sync Client intercepts data regarding user actions such as creating, editing and saving documents (application level events). In such a case, the stand-alone application is Microsoft Word. Further, each individual user makes changes to their local version of the document (native document file) and the Sync Client syncs this local version with all other users' versions in real-time. *See* <https://support.office.com/en-us/article/Get-started-with-the-OneDrive-for-Business-Next-Generation-Sync-Client-in-Windows-615391c4-2bd3-4aae-a42a-858262e42a49> (last accessed May 24, 2016); Co-Authoring. The Microsoft Word application on the user's computer that did not make the change to the document (the second instance of the stand-alone application) then displays this local copy of the document. The OneDrive for Business Sync client receives the data comprising application level events and then uses it to modify the local copy of the document on the other user's computer. *See* Video at <https://blogs.office.com/2015/10/30/word-real-time-co-authoring-a-closer-look/#6Uv0JjlS4ouo4XK6.97> (last accessed May 24, 2016). The OneDrive for Business Sync Client only propagates changes and user events within the stand-alone application. For example, during a co-authoring of a Microsoft Word document, only user actions corresponding to the co-authored document are transmitted to other co-authors.

Further, OneDrive for Business encrypts all data communications and adheres to multiple compliance standards.

13. Rosebud is entitled to recover from Defendant the damages sustained by Rosebud as result of Defendant's infringement of the '280 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**JURY DEMAND**

Rosebud hereby demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Rosebud requests that this Court enter judgment against Defendant as follows:

- A. An adjudication that Defendant has infringed the '280 patent;
- B. An award of damages to be paid by Defendant adequate to compensate Rosebud for Defendant's past infringement of the '280 patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Rosebud's reasonable attorneys' fees; and
- D. An award to Rosebud of such further relief at law or in equity as the Court deems just and proper.

Dated: May 24, 2016

STAMOULIS & WEINBLATT LLC

*/s/ Richard C. Weinblatt*

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