

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT,

Plaintiff,

v.

MICROSOFT CORPORATION

Defendant.

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CIVIL ACTION NO. 6:20-cv-334

JURY TRIAL DEMANDED

**ORIGINAL COMPLAINT FOR PATENT
INFRINGEMENT**

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Brazos” or “Plaintiff”), by and through its attorneys, files this Complaint for Patent Infringement against Microsoft Corporation (“Microsoft” or “Defendant”) and alleges:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq., including §§ 271, 281, 284, and 285.

THE PARTIES

2. Brazos is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business at 605 Austin Avenue, Suite 6, Waco, Texas 76701.

3. On information and belief, Defendant Microsoft Corporation is incorporated under the laws of Washington State with its principal place of business at 1 Microsoft Way, Redmond, Washington 98052. Microsoft may be served with process through its registered agent Corporation Service Company, 211 East 7th Street, Suite 620, Austin, Texas 78701.

4. On information and belief, Microsoft has been registered to do business in the state of Texas under Texas SOS file number 0010404606 since about March 1987.

5. On information and belief, Microsoft has had regular and established places of business in this judicial district since at least 2002.

JURISDICTION AND VENUE

6. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§ 271, 281, 284, and 285.

7. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has specific and general personal jurisdiction over Microsoft pursuant to due process and/or the Texas Long Arm Statute, because Microsoft has committed acts giving rise to this action within Texas and within this judicial district. The Court's exercise of jurisdiction over Microsoft would not offend traditional notions of fair play and substantial justice because Microsoft has established minimum contacts with the forum. For example, on information and belief, Microsoft has committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringe the asserted patent, directly or through intermediaries, as alleged herein.

9. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§1391 and/or 1400(b).

10. This district was deemed to be a proper venue for patent cases against Microsoft in actions bearing docket numbers: 6-19-cv-00572 (*Zeroclick, LLC v. Microsoft Corporation*); 6-19-cv-00687 (*Exafer, Ltd. v. Microsoft Corporation.*); and 6-19-cv-00399 (*Neodron Ltd. v. Microsoft Corporation*).

11. On information and belief, Microsoft maintains a variety of regular and established business locations in the judicial district including its Corporate Sales Office Locations, Retail Store Locations, and Datacenter Locations.

12. On information and belief, Microsoft operates multiple corporate sales offices in the judicial district, and these offices constitute regular and established places of business.

13. On information and belief, Microsoft employs hundreds of employees within its corporate sales offices located in the judicial district.

14. On information and belief, Microsoft has an established place of business in this judicial district known as “Corporate Sales Office: Austin” located at 10900 Stonelake Boulevard, Suite 225, Austin, Texas 78759 and “Microsoft Retail Store: The Domain” located at 3309 Esperanza Crossing, Suite 104 Austin, Texas 78758.

Microsoft U.S. office locations

Microsoft reaches customers at sales offices, support centers and technology centers throughout the country. Use the clickable map or the location links for more information.

78759 OR Enter State All ▾

1. Corporate Sales Office: Austin 10900 Stonelake Boulevard, Suite 225 Austin, TX, USA 78759 View directions	1.18 mi
2. Microsoft Retail Store: The Domain 3309 Esperanza Crossing, Suite 104 Austin, TX, USA 78758 View directions	1.79 mi

The screenshot also includes a map of Austin, Texas, with a red pin indicating the location of the Corporate Sales Office: Austin. The map shows major roads like Mopac Blvd and I-35, and surrounding areas like Anderson Mill, Pflugerville, and Elgin.

<https://www.microsoft.com/en-us/about/officelocator?Location=78759>

15. On information and belief, Microsoft’s “Corporate Sales Office: Austin” and “Microsoft Retail Store: The Domain” locations were respectively assessed by the Travis County Appraisal District in 2019 to have a market values of over \$2.3 million dollars and \$2.7 million dollars.

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value
434688		Personal	10900 STONELAKE BLVD 8-225 AUSTIN, TX 78759	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$2,300,856
818154		Personal	3309 ESPERANZA CROSSING 104 AUSTIN, TX 78758	MICROSOFT CORPORATION	MICROSOFT CORPORATION STORE #11	\$2,702,083
846391		Personal	12812 SHOPS PARKWAY 300 TX 78738	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$205
846393		Personal	907 W 5 ST 101 TX 78703	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$623
846400		Personal	9600 S INTERSTATE HY 35 TX 78748	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$276
846401		Personal	1201 BARBARA JORDAN BLVD 3-700 TX 78723	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$26,744

<http://propaccess.traviscad.org/clientdb/SearchResults.aspx>

16. On information and belief, Microsoft has another established place of business in this judicial district known as “Corporate Sales Office: San Antonio” located at Concord Park II, 401 East Sonterra Boulevard, Suite 300, San Antonio, Texas 78258.



Source: Google Maps

17. On information and belief, Microsoft owns and operates multiple datacenters in the judicial district, including without limitation data centers located at 5150 Rogers Road, San Antonio, Texas 78251; 5200 Rogers Road, San Antonio, Texas 78251; 3823 Weisman Boulevard, San Antonio, Texas 78251; and 15000 Lambda Drive, San Antonio, Texas 782245.

18. On information and belief, Microsoft utilizes its datacenter locations in this judicial district as regular and established places of business. As a non-limiting example, the data centers in San Antonio are referred to within Microsoft as “US Gov Texas.”

19. On information and belief, thousands of customers who rely on the infringing datacenter infrastructure that Microsoft’s engineering and operations teams have built, reside in this judicial district.

COUNT ONE - INFRINGEMENT OF
U.S. PATENT NO. 8,965,978

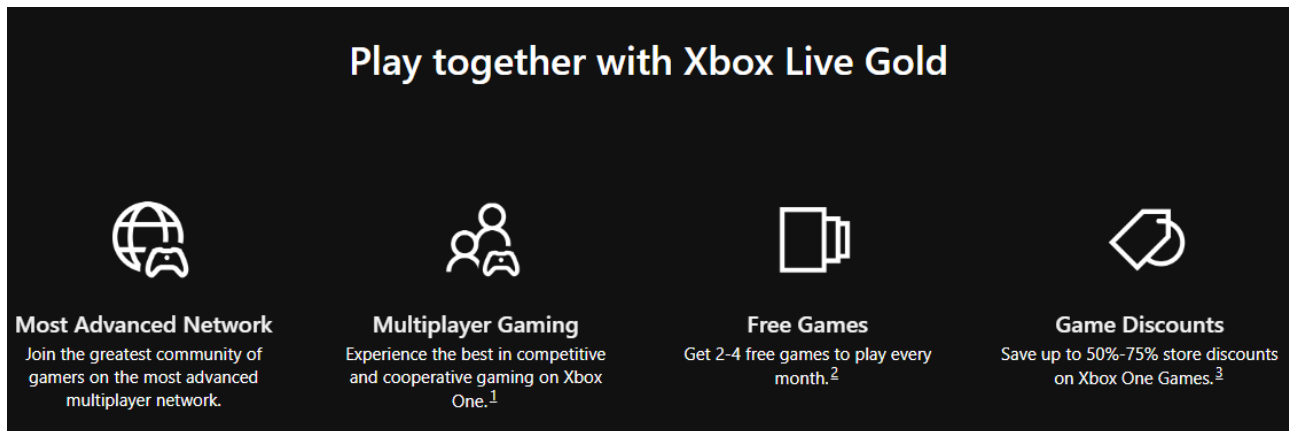
20. Brazos re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

21. On February 24, 2015, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,965,978 (“the ’978 Patent”), entitled “Methods and Devices for Maintaining Sessions Based on Presence Status Information.” A true and correct copy of the ’978 Patent is attached as Exhibit A to this Complaint.


22. Brazos is the owner of all rights, title, and interest in and to the ’978 Patent, including the right to assert all causes of action arising under the ’978 Patent and the right to any remedies for the infringement of the ’978 Patent.


23. Microsoft makes, uses, sells, offers for sale, imports, and/or distributes in the United States, including within this judicial district, products such as, but not limited to, certain online gaming platforms, including Microsoft Xbox Live (collectively, the “Accused Products”).


24. Xbox Live, for example, was developed by Microsoft and provides an online environment for playing video games. Microsoft Xbox Live’s Gold feature allows users to play together online games through multiplayer gaming. This results in the formation of groups associated with online gaming sessions.




Play together with Xbox Live Gold

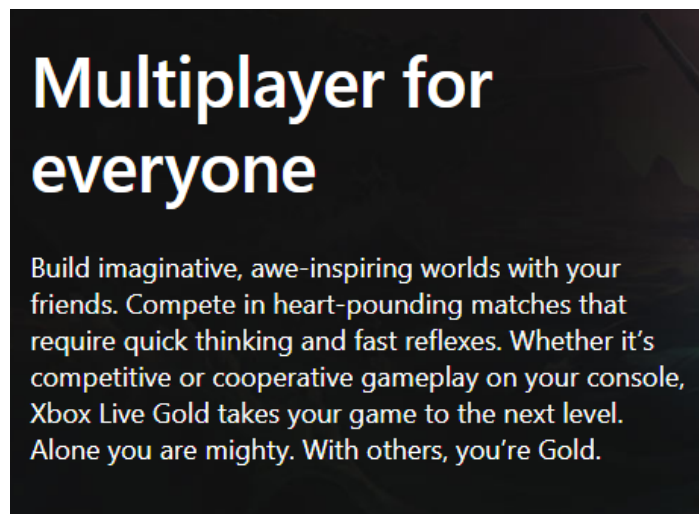
 **Most Advanced Network**
Join the greatest community of gamers on the most advanced multiplayer network.

 **Multiplayer Gaming**
Experience the best in competitive and cooperative gaming on Xbox One.¹

 **Free Games**
Get 2-4 free games to play every month.²

 **Game Discounts**
Save up to 50%-75% store discounts on Xbox One Games.³

<https://www.xbox.com/en-IN/Live/gold>



Multiplayer for everyone

Build imaginative, awe-inspiring worlds with your friends. Compete in heart-pounding matches that require quick thinking and fast reflexes. Whether it's competitive or cooperative gameplay on your console, Xbox Live Gold takes your game to the next level. Alone you are mighty. With others, you're Gold.

<https://www.xbox.com/en-IN/Live/gold>

25. Xbox Live also provides its users with the feature to find a group of players with similar interests through its 'Looking for Group' and 'Club' features.



Gather your Fireteam

With Looking for Group on Xbox Live, you can search for gamers with similar gaming objectives, playstyles and preferences across Xbox One and Windows 10 PC games.

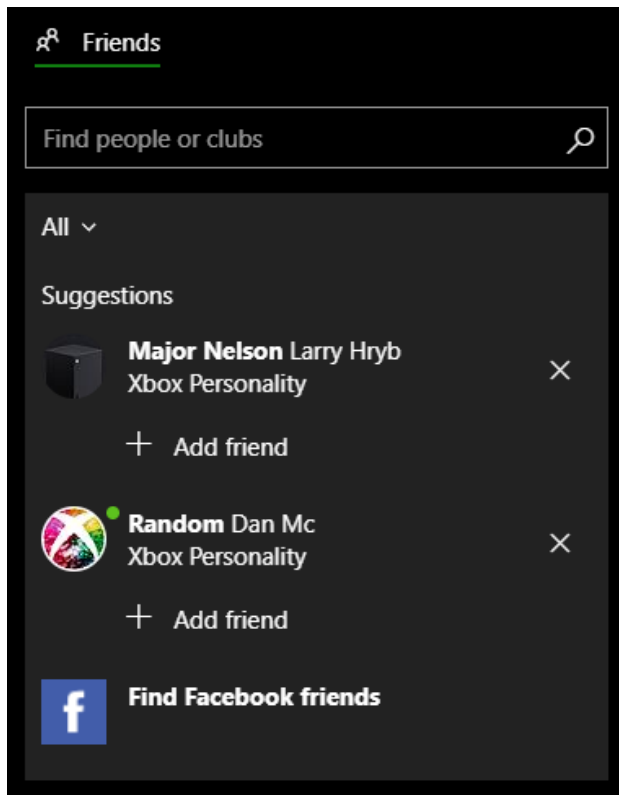


Welcome to the Club

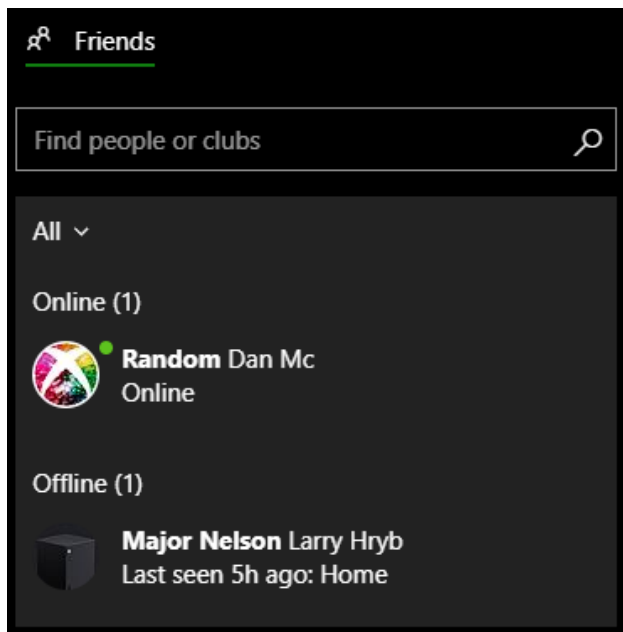
Create your own gaming communities with Clubs on Xbox Live. With dedicated groups organised around similar interests, playstyles and objectives, it's easier than ever to stay connected with like-minded gamers.

<https://www.xbox.com/en-IN/live>

26. The Accused Products provide a player with a display listing other players as suggested friends along with their profile picture and username.




27. The Accused Products determine the availability of the identified players. Xbox Live, for example, states whether a player is online or offline.



28. The Accused Products also determine whether a player is playing a game or not. If the player is playing a game, then Xbox Live also helps users to determine what game another player is playing.

To narrow it down:

1. Press the **Xbox** button  to open the guide., and then select **People**. You'll see which friends are online and how many of them are currently in a game.
2. Select the list of who's online to see what they're doing, such as playing a game or watching Netflix.
3. Select the list of friends in games to see what game they're playing and on what platform: console, PC, or mobile device.

<https://beta.support.xbox.com/help/friends-social-activity/friends-groups/how-to-view-friend-activity>

29. The Accused Products provide a rule-set that is utilized for skill-based matchmaking, such as Xbox Live SmartMatch. The skills of the players are determined according

to various parameters such as player level, skill, and other game-specific properties.

Skill-Based Matchmaking

Skill-based matchmaking is a refinement of simple matchmaking scenario. In this scenario, the matchmaking service includes more advanced rule sets like skill, player level and other game-specific properties.

The matchmaking service uses rules that use these match parameters to find a more high-quality session for the player. Depending on game design, match parameters are configured directly by the player or are automatically set by the title.

Xbox Live SmartMatch provides a set of rules that can be used for skill-based matchmaking. The SmartMatch service uses an Xbox Live feature called TrueSkill to help evaluate the relative skill of a player.

This type of multiplayer can use similar services as the previous scenario:

- Multiplayer Manager
- Presence
- Stats
- Social Manager
- SmartMatch matchmaking

Testing this scenario requires a large set of Xbox Live accounts and devices. Developers should note that true player dynamics for session lists can only be tested with large player bases. Tools are available to simplify network condition, TrueSkill and SmartMatch testing.

<https://docs.microsoft.com/en-us/gaming/xbox-live/features/multiplayer/concepts/live-common-multiplayer-scenarios>

30. When a player selects a game for a multiplayer online gaming session, matchmaking in the Accused Products compares the profiles of other players to the player's skill at that game. One such skill based ranking system used in the Accused Products is Microsoft's TrueSkill ranking system, which was developed in order to perform better matchmaking in

competitive games.

[Overview](#) [Publications](#) [Groups](#)



The TrueSkill ranking system is a skill based ranking system for [Xbox Live](#) developed at [Microsoft Research](#). The purpose of a ranking system is to both identify and track the skills of gamers in a game (mode) in order to be able to match them into competitive matches. TrueSkill has been used to rank and match players in many different games, from Halo 3 to [Forza Motorsport 7](#).

An improved version of the TrueSkill ranking system, named [TrueSkill 2](#), launched with [Gears of War 4](#) and was later incorporated into [Halo 5](#).

The classic TrueSkill ranking system only uses the final standings of all teams in a match in order to update the skill estimates (ranks) of all players in the match. The TrueSkill 2 ranking system also uses the individual scores of players in order to weight the contribution of each player to each team. As a result, TrueSkill 2 is much faster at figuring out the skill of a new player.

<https://www.microsoft.com/en-us/research/project/trueskill-ranking-system/>

31. The Accused Products form a gaming group of players that are not currently involved in a gaming session of the game. Matchmaking takes into account the skill level of these other players to try to select ones with substantially the same skill level as the player requesting to be matched and form the group. For example, Microsoft's Halo 3 game includes a lobby where such matchmaking occurs using the TrueSkill ranking system and shows players as they are added to the group.

Skill-Based Matchmaking

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<https://docs.microsoft.com/en-us/gaming/xbox-live/features/multiplayer/concepts/live-common-multiplayer-scenarios>

<https://halo.fandom.com/wiki/Matchmaking>

<https://www.youtube.com/watch?v=weukO3155uo>

32. The Accused Products can use MultiplayerLobbySession classes to represent a lobby. The lobby manages the members with the respective skills for a game. The LobbySession() Object manages the members who are invited to join the game and GameSession() contains

members that a user's lobby has been matched with.

MultiplayerLobbySession Class

Namespace: [Microsoft.Xbox.Services.Multiplayer.Manager](#)

Assembly: [Microsoft.Xbox.Services.dll](#)

Represents a multiplayer lobby. This is also where you manage members that are local to this device. There are two game objects when using a multiplayer manager. One represents the `LobbySession()` which is where friends you invite will join. Another is the `GameSession()` which contains people that your lobby has been matched with.

C#	Copy
<pre>[Windows.Foundation.Metadata.MarshalingBehavior(Windows.Foundation.Metadata.MarshalingType.Agile)] [Windows.Foundation.Metadata.Threading(Windows.Foundation.Metadata.ThreadingModel.Both)] [Windows.Foundation.Metadata.Version(1)] public sealed class MultiplayerLobbySession</pre>	

Inheritance [Object](#) → [MultiplayerLobbySession](#)

Attributes [Windows.Foundation.Metadata.MarshalingBehaviorAttribute](#), [Windows.Foundation.Metadata.ThreadingAttribute](#),
[Windows.Foundation.Metadata.VersionAttribute](#)

<https://docs.microsoft.com/en-us/dotnet/api/microsoft.xbox.services.multiplayer.manager.multiplayerlobbysession?view=xboxlive-dotnet-2017.11.20171204.01>

33. In view of preceding paragraphs, each and every element of at least claim 1 of the '978 Patent is found in the Accused Products.

34. Microsoft has and continues to directly infringe at least one claim of the '978 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district, without the authority of Brazos.

35. Microsoft has received notice and actual or constructive knowledge of the '978 Patent since at least the date of service of this Complaint.

36. Since at least the date of service of this Complaint, through its actions, Microsoft has actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the '978 Patent throughout the United States, including within this judicial

district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating product descriptions, operating manuals, and other instructions on how to implement and configure the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at:

- <https://www.xbox.com/en-IN/Live/gold>
- <https://www.xbox.com/en-IN/live>
- <https://beta.support.xbox.com/help/friends-social-activity/friends-groups/how-to-view-friend-activity>
- <https://docs.microsoft.com/en-us/gaming/xbox-live/features/multiplayer/concepts/live-common-multiplayer-scenarios>
- <https://www.microsoft.com/en-us/research/project/trueskill-ranking-system/>
- <https://docs.microsoft.com/en-us/dotnet/api/microsoft.xbox.services.multiplayer.manager.multiplayerlobbysession?view=xboxlive-dotnet-2017.11.20171204.01>

37. Since at least the date of service of this Complaint, through its actions, Microsoft has contributed to the infringement of the '978 Patent by having others sell, offer for sale, or use the Accused Products throughout the United States, including within this judicial district, with knowledge that the Accused Products infringe the '978 Patent. The Accused Products are especially made or adapted for infringing the '978 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the '978 Patent.

JURY DEMAND

Brazos hereby demands a jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Brazos respectfully requests that the Court:

(A) Enter judgment that Microsoft infringes one or more claims of the '978 Patent literally and/or under the doctrine of equivalents;

(B) Enter judgment that Microsoft has induced infringement and continues to induce infringement of one or more claims of the '978 Patent;

(C) Enter judgment that Microsoft has contributed to and continues to contribute to the infringement of one or more claims of the '978 Patent;

(D) Award Brazos damages, to be paid by Microsoft in an amount adequate to compensate Brazos for such damages, together with pre-judgment and post-judgment interest for the infringement by Microsoft of the '978 Patent through the date such judgment is entered in accordance with 35 U.S.C. §284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. §284;

(E) Declare this case exceptional pursuant to 35 U.S.C. §285; and

(F) Award Brazos its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Dated: April 28, 2020

Respectfully submitted,

/s/ James L. Etheridge

James L. Etheridge

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