

**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-333

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 marking 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. 7,676,550

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

21. On March 9, 2010, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,676,550 (“the ’550 Patent”), entitled “Multiple Access Presence Agent.” A true and correct copy of the ’550 Patent is attached as Exhibit A to this Complaint.

22. Brazos is the owner of all rights, title, and interest in and to the ’550 Patent, including the right to assert all causes of action arising under the ’550 Patent and the right to any remedies for the infringement of the ’550 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

group meeting platforms, including Microsoft Skype for Business (collectively, the “Accused Products”).

24. Skype for Business, for example, was developed by Microsoft and provides an online audio and video meeting platform. Skype for Business allows multiple users to collaborate online. Users establish their presence on the common platform so that other users can establish a communication session based on their availability. The Accused Products provide an availability (presence) system having multiple users and administrators and an associated server for rights management and other functions.

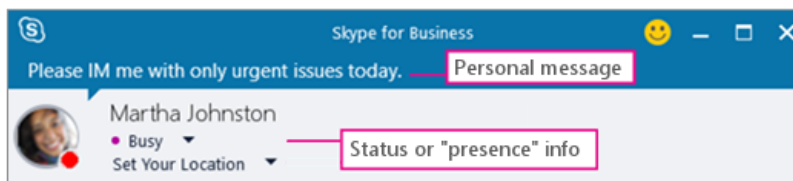
Microsoft Skype for Business Basic gives you instant messaging (IM), audio and video calls, online meetings, availability (presence) information, and sharing capabilities all from one, easy-to-use program.

<https://www.microsoft.com/en-in/download/details.aspx?id=49440>

25. Users of the Accused Products can provide their presence information to a server associated with the Accused Products, such as a Skype for Business Server. The presence information for a user includes availability status, location, personal status messages, color-coded presence indicator, location, schedule, and any personal message.

What exactly is presence information in Skype for Business?

Your presence information includes your availability status (such as **Available** or **Away**), a color-coded presence indicator (such as green, yellow, or red), your schedule, your location, and any personal status messages or out-of-office notes you added.



<https://support.office.com/en-us/article/control-access-to-your-presence-information-in-skype-for-business-fea86e34-60cf-4dd0-bfb2-169a42afd92c>

Your presence information is a quick way for other people to see your availability status. Presence is automatically set based on your Outlook calendar, but you can change it manually if you want to.

As an example, if you have a meeting currently scheduled in Outlook, your status appears as "In a meeting" in Skype for Business. When you're in a Skype for Business audio or video call, your presence indicator appears red, as Busy, and your status is updated to "In a call."

You can also manually set your presence status to include details you want others to see. Your presence can also include a personal note that appears in your Contacts list and on your contact card. This gives people more information about what you're up to.

<https://support.office.com/en-us/article/change-your-presence-status-in-skype-for-business-9b64eef5-47b8-46d8-a744-f490e6f88feb>

26. The Accused Products allow an organization administrator to manage the users by entrusting control of specific management tasks to employees. The employees are given rights of Role-Based Access Control (RBAC) roles. These employees can do management tasks from their account. The RBAC Roles can be given specific rights such as the right to manage only user accounts or the right to manage only enterprise voice components etc.

Role-based access control (RBAC) enables administrators to delegate control of specific management tasks in Skype for Business Server. For example, instead of granting your organization's help desk full administrator privileges, you can give these employees very specific rights, such as the right to manage only user accounts; the right to manage only Enterprise Voice components; and the right to manage only archiving and Archiving Server. In addition, these rights can be limited in scope: someone can be given the right to manage Enterprise Voice, but only in the Redmond site; someone else can be given the right to manage users, but only if those user accounts are in the Finance organizational unit (OU).

<https://docs.microsoft.com/en-us/powershell/module/skype/get-csadminrole?view=skype-ps>

27. When an administrator sets up Skype for Business Server for an organization, for example, several universal security groups such as CsAdministrator, CsArchivingAdministrator, and CsViewOnlyAdministrator are created based on RBAC roles. Thus, a user who is in one of the security groups has the rights granted of the respective group, such as when a user who is a

part of CsAdministrator security group has the rights granted to CsAdministrator RBAC role.

The Skype for Business Server implementation of RBAC is based on two key elements: Active Directory security groups and Windows PowerShell cmdlets. When you install Skype for Business Server, a number of universal security groups such as CsAdministrator, CsArchivingAdministrator, and CsViewOnlyAdministrator are created for you. These universal security groups have a one-to-one correspondence with RBAC roles, which means that any user who is in the CsArchivingAdministrator security group has all of the rights granted to the CsArchivingAdministrator RBAC role. In turn, the rights granted to an RBAC role are based on the cmdlets assigned to that role (cmdlets can be assigned to multiple RBAC roles). For example, suppose a role has been assigned the following cmdlets:

<https://docs.microsoft.com/en-us/powershell/module/skype/get-csadminrole?view=skype-ps>

28. Administrators can have different rights and privileges and can perform respective management tasks by accessing sets of information based on their rights. The administrators can contribute to the presence information of both general users and other administrators. Skype for Business, for example, includes both general users and administrators of varying levels, which are part of the system for managing presence information.

In other cases, administrators can configure the default values in Skype for Business while still giving users the right to change these values. For example, by default location data is published for users, although users do have the right to stop location publication. By setting the PublishLocationDataByDefault property to False, administrators can change this behavior: in that case, location data will not be published by default, although users will still have the right to publish this data if they choose.

<https://docs.microsoft.com/en-us/powershell/module/skype/set-csprivacyconfiguration?view=skype-ps>.

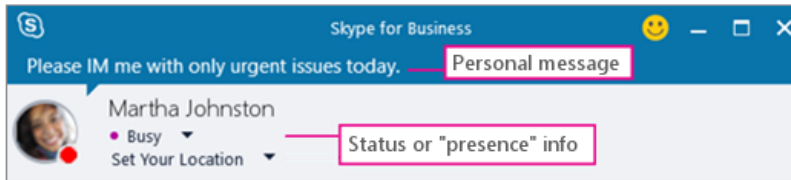
29. Administrators are entitled to control specific management tasks. An administrator can be entitled to manage users, which can allow the administrator to access information about the user and configure the default values of presence information.

30. A user can access and modify their respective values of presence information, such as their availability, location, and to whom the information will be displayed. The presence

information of Skype for Business users is stored remotely from the users, such as on a Skype server.

What exactly is presence information in Skype for Business?

Your presence information includes your availability status (such as **Available** or **Away**), a color-coded presence indicator (such as green, yellow, or red), your schedule, your location, and any personal status messages or out-of-office notes you added.



<https://support.office.com/en-us/article/control-access-to-your-presence-information-in-skype-for-business-fea86e34-60cf-4dd0-bfb2-169a42afd92c>

Your presence information is a quick way for other people to see your availability status. Presence is automatically set based on your Outlook calendar, but you can change it manually if you want to.

As an example, if you have a meeting currently scheduled in Outlook, your status appears as “In a meeting” in Skype for Business. When you’re in a Skype for Business audio or video call, your presence indicator appears red, as Busy, and your status is updated to “In a call.”

You can also manually set your presence status to include details you want others to see. Your presence can also include a personal note that appears in your Contacts list and on your contact card. This gives people more information about what you’re up to.

<https://support.office.com/en-us/article/change-your-presence-status-in-skype-for-business-9b64eef5-47b8-46d8-a744-f490e6f88feb>

31. An administrator with appropriate permissions can modify the presence information based on the administrator rights. An administrator can access information on a Skype server, for example, to manage the presence information of users and other administrators

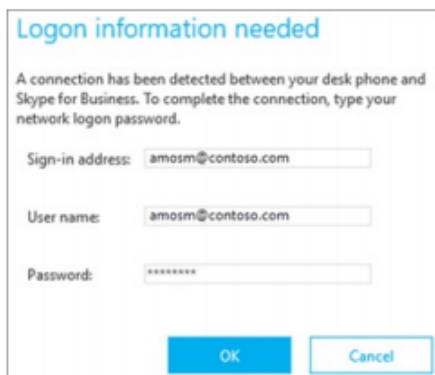
depending upon the rights and privileges of the administrator.

In other cases, administrators can configure the default values in Skype for Business while still giving users the right to change these values. For example, by default location data is published for users, although users do have the right to stop location publication. By setting the PublishLocationDataByDefault property to False, administrators can change this behavior: in that case, location data will not be published by default, although users will still have the right to publish this data if they choose.

<https://docs.microsoft.com/en-us/powershell/module/skype/set-csprivacyconfiguration?view=skype-ps>

32. For example, a Skype server manages the presence information and determines the rights for an administrator associated with a Skype for Business account. In this example, to access Skype for Business, an administrator must log-in through Skype for Business application by providing their respective credentials. The Skype server also authenticates users to verify their identity and determine respective rights and privileges.

- **User ID** Using the phone's keypad or on-screen keyboard (if available), users can use their organization's user name and password to sign in to the phone. For example, they should use the UPN format like *amosm@contoso.com* for their user name.



<https://docs.microsoft.com/en-us/SkypeForBusiness/opbuildpdf/sfbotoc/TOC.pdf?branch=live>

33. As an example, an administrator can configure the default location data such that other users (as presence contributors) cannot see the presence information. An administrator also has the option to change attributes of the presence information. The administrator can enable the

presence information of the users to make it visible to contacts or other users. Skype server implements the setting that is changed by the administrator to display the presence information based on the configuration.

In other cases, administrators can configure the default values in Skype for Business while still giving users the right to change these values. For example, by default location data is published for users, although users do have the right to stop location publication. By setting the PublishLocationDataByDefault property to False, administrators can change this behavior: in that case, location data will not be published by default, although users will still have the right to publish this data if they choose.

<https://docs.microsoft.com/en-us/powershell/module/skype/set-csprivacyconfiguration?view=skype-ps>

Using the Skype for Business admin center

1. Go to the admin center > **Admin centers** > **Skype for Business**.
2. In the **Skype for Business admin center**, choose **organization**.
3. Under **presence privacy mode**, select one of the following settings, and then choose **Save**.

Setting	Who can view a user's presence
Automatically display presence information	Any Skype for Business user in your business who has not been added to a person's External or Blocked list will be able to see that person's online presence.
Display presence information only to a user's contacts	Anyone in a person's Contacts list who they have not added to their External or Blocked list. Individuals can override your default settings in their Skype for Business app: Settings > Tools > Options .

<https://docs.microsoft.com/en-us/skypeforbusiness/set-up-skype-for-business-online/configure-presence-in-skype-for-business-online>

34. The Skype server enables the administrator to access the presence information of the users. Skype Server checks the specific rights and privileges of an administrator to allow access to the presence information based on the role assigned. For example, if an administrator role is

entitled to a management task associated with the part of the presence information, the presence information of users will be filtered by the server, and the administrator will access that part of the information. This filtered information is received by software installed on the device of the administrator, such as Skype for Business. As an example, a helpdesk employee can be given rights to manage user accounts and other users can be given archiving rights. The helpdesk administrator can see information related to user accounts in a certain location or group while the archiving administrator can see information related to chat history.

Role-based access control (RBAC) enables administrators to delegate control of specific management tasks in Skype for Business Server. For example, instead of granting your organization's help desk full administrator privileges, you can give these employees very specific rights, such as the right to manage only user accounts; the right to manage only Enterprise Voice components; and the right to manage only archiving and Archiving Server. In addition, these rights can be limited in scope: someone can be given the right to manage Enterprise Voice, but only in the Redmond site; someone else can be given the right to manage users, but only if those user accounts are in the Finance organizational unit (OU).

<https://docs.microsoft.com/en-us/powershell/module/skype/get-csadminrole?view=skype-ps>

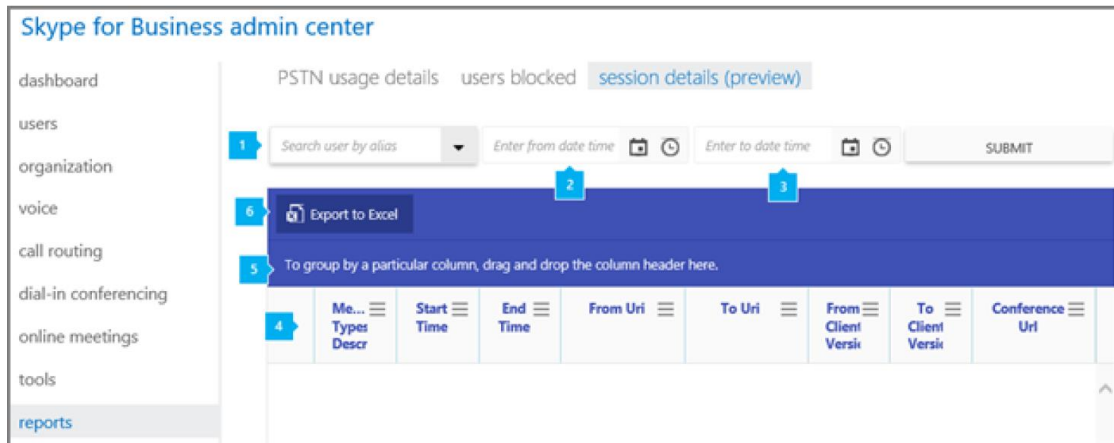
35. The Accused Products include software, such as Skype for Business, that provides a graphical user interface enabling an administrator to access attributes of the presence information. The administrator can access only the filtered presence information in which the administrator is entitled based on the role and the access rules and can update the filtered presence information. As an example, an administrator can disable the presence information so that it will not be visible to other contacts or users blocked by the user.

S Using the Skype for Business admin center

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Setting	Who can view a user's presence
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<https://docs.microsoft.com/en-us/skypeforbusiness/set-up-skype-for-business-online/configure-presence-in-skype-for-business-online>



<https://docs.microsoft.com/en-us/SkypeForBusiness/opbuildpdf/sfbtoc/TOC.pdf?branch=live>

36. In view of preceding paragraphs, each and every element of at least claim 8 of the '550 Patent is found in the Accused Products.

37. Microsoft has and continues to directly infringe at least one claim of the '550 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.

38. Microsoft has received notice and actual or constructive knowledge of the '550 Patent since at least the date of service of this Complaint.

39. 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 '550 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://support.office.com/en-us/article/change-your-presence-status-in-skype-for-business-9b64eef5-47b8-46d8-a744-f490e6f88feb>
- <https://support.office.com/en-us/article/control-access-to-your-presence-information-in-skype-for-business-fea86e34-60cf-4dd0-bfb2-169a42afd92c>
- <https://docs.microsoft.com/en-us/powershell/module/skype/get-csadminrole?view=skype-ps>
- <https://docs.microsoft.com/en-us/powershell/module/skype/set-csprivacyconfiguration?view=skype-ps>
- <https://docs.microsoft.com/en-us/SkypeForBusiness/opbuildpdf/sfbotoc/TOC.pdf?branch=live>
- <https://docs.microsoft.com/en-us/skypeforbusiness/set-up-skype-for-business-online/configure-presence-in-skype-for-business-online>
- <https://support.office.com/en-us/article/change-your-presence-status-in-skype-for-business-9b64eef5-47b8-46d8-a744-f490e6f88feb>

40. Since at least the date of service of this Complaint, through its actions, Microsoft has contributed to the infringement of the '550 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 '550 Patent. The Accused Products are especially made or adapted for infringing the '550 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 '550 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 '550 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 '550 Patent;
- (C) Enter judgment that Microsoft has contributed to and continues to contribute to the infringement of one or more claims of the '550 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 '550 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

Texas State Bar No. 24059147

Ryan S. Loveless

Texas State Bar No. 24036997

Travis L. Richins

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