

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

**Pointwise Ventures LLC,**

Plaintiff,

v.

**Microsoft Corporation,**

Defendant.

Case No. 6:24-cv-139

Patent Case

Jury Trial Demanded

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

1. Plaintiff Pointwise Ventures LLC (“Plaintiff”), through its attorneys, complains of Microsoft Corporation (“Defendant”), and alleges the following:

**PARTIES**

2. Plaintiff Pointwise Ventures LLC is a limited liability company organized and existing under the laws of New Mexico that maintains its principal place of business at 2201 Menaul Blvd NE, STE A, Albuquerque, NM 87107.

3. Defendant Microsoft Corporation is a corporation organized and existing under the laws of Washington that maintains an established place of business at 10900 Stonelake Blvd., #225, Austin, TX 78759.

**JURISDICTION**

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

5. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

#### VENUE

7. Venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant has an established place of business in this District. In addition, Defendant has committed acts of patent infringement in this District, and Plaintiff has suffered harm in this district.

#### PATENT-IN-SUIT

8. Plaintiff is the assignee of all right, title and interest in United States Patent Nos. 8,471,812 (“the ’812 Patent”) (“the Patent-in-Suit”), including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patents-in-Suit. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the Patents-in-Suit by Defendant.

9. Prior to the inventions of the ’812 Patent, “there [was] still no solution in the art to provide a pointer for pointing directly at, clicking-on, and identifying a distant absolute location and for doing so on a TV screen, on a computer screen, or in the real world.” ’812 Patent, 2:29-31.

10. Prior to the inventions of the ’812 Patent, peripheral devices in the prior art, such as the “mouse,” could not “detect that the user has picked it up off the mouse pad and relocated it,” were “limited to pointing on the screen and cannot let the user point to locations in the real world,” could not “be used to directly point at a location on a computer screen,” could not “be

used at all to point to locations on a typical TV screen or locations in the real world,” and could not “let the user point in three dimensions.” ’812 Patent, 1:15-30.

11. To address these technical limitations of the prior art, the ’812 Patent disclosed and claimed a method of using a novel and unconventional hardware device, claimed in Claim 1 as a “pointing and identification device.” This device, and the unconventional methods of using it, are among the inventive concepts claimed in Claim 1 of the ’812 Patent.

12. The “pointing and identification device” claimed in the ’812 Patent was comprised of a novel and unconventional combination of components.

13. This novel and unconventional combination of components taught away from the conventional hardware of the prior art. For example, conventional pointing devices either did not use digital cameras at all, used them only as a “recorder,” or used them to “take pictures of offline media.” ’812 Patent, 1:31-2:28. However, none of the conventional pointing devices used “a digital camera for forming a digital image of the object or of a portion of the object when the user points the pointing and identification device at the object and actuates the at least one actuation means,” as claimed in Claim 1 of the ’812 Patent. Moreover, none of the conventional pointing devices “provide[d] a pointer for pointing directly at, clicking-on, and identifying a distant absolute location and for doing so on a TV screen, on a computer screen, or in the real world.” *Id.* at 2:29-32.

14. The ’812 Patent discloses and claims a number of novel and unconventional methods of using the “pointing and identification device.”

15. For example, the ’812 Patent discloses that the novel and unconventional “PID” (pointing and identification device) can be used to “identify objects to get more information and/or to buy.” ’812 Patent, 33:25-26.

16. This inventive method of using the novel and unconventional “pointing and identification device” is claimed in Claim 1, whereby (among other things) the claimed method involves the steps of “automatically identifying a list of likely pointed-to objects from the digital image at the different location to return the list of likely pointed-to objects” and “returning the list of likely pointed-to objects to the user to select one of the likely pointed-to objects.”

17. This functionality simply would not have been possible using conventional hardware devices of the prior art, such as the mouse, according to conventional methods.’812 Patent, 1:15-30; 2:29-31.

18. None of the claimed methods of the ’812 Patent were previously performed by human beings, automated human behavior or processes, or were capable of being performed in the human mind.

#### **THE ’812 PATENT**

19. The ’812 Patent is entitled “Pointing and identification device,” and issued 2013-06-25. The application leading to the ’812 Patent was filed on 2005-09-23. A true and correct copy of the ’812 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

#### **COUNT 1: INFRINGEMENT OF THE ’812 PATENT**

20. Plaintiff incorporates the above paragraphs herein by reference.

21. **Direct Infringement.** Defendant directly infringed one or more claims of the ’812 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, at least the Defendant products identified in the charts incorporated into this Count below (among the “Exemplary Defendant Products”) that infringed at least the exemplary claims of the ’812 Patent also identified in the charts incorporated into this Count below (the

“Exemplary ’812 Patent Claims”) literally or by the doctrine of equivalents. On information and belief, numerous other devices that infringed the claims of the ’812 Patent have been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

22. Defendant also directly infringed, literally or under the doctrine of equivalents, the Exemplary ’812 Patent Claims, by having its employees internally test and use these Exemplary Products.

23. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement.

24. **Actual Knowledge of Infringement.** The service of the Original Complaint and this First Amended Complaint, in conjunction with the attached claim charts and references cited, constitutes actual knowledge of infringement as alleged here.

25. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the ’812 Patent. On information and belief, Defendant has also continued to sell the Exemplary Defendant Products and distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the ’812 Patent. See Exhibit 2 (extensively referencing these materials to demonstrate how they direct end users to commit patent infringement).

26. **Induced Infringement.** At least since being served by this Complaint and corresponding claim charts, Defendant has actively, knowingly, and intentionally continued to induce infringement of the ’812 Patent, literally or by the doctrine of equivalents, by selling Exemplary Defendant Products to their customers for use in end-user products in a manner that infringes one or more claims of the ’812 Patent.

27. Exhibit 2 includes charts comparing the Exemplary '812 Patent Claims to the Exemplary Defendant Products. As set forth in these charts, the Exemplary Defendant Products practice the technology claimed by the '812 Patent. Accordingly, the Exemplary Defendant Products incorporated in these charts satisfy all elements of the Exemplary '812 Patent Claims.

28. Plaintiff therefore incorporates by reference in its allegations herein the claim charts of Exhibit 2.

29. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement.

#### **JURY DEMAND**

30. Under Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. A judgment that the '812 Patent is valid and enforceable
- B. A judgment that Defendant has infringed directly one or more claims of the '812 Patent;
- C. An accounting of all damages not presented at trial;
- D. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendant's continuing or future infringement, up until the date such judgment is entered with respect to the '812 Patent, including pre- or post-judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284;
- E. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendant's past infringement at least with respect to the '812 Patent.

- F. And, if necessary, to adequately compensate Plaintiff for Defendant's infringement, an accounting:
- i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Plaintiff be awarded its reasonable attorneys fees against Defendant that it incurs in prosecuting this action;
  - ii. that Plaintiff be awarded costs, and expenses that it incurs in prosecuting this action; and
  - iii. that Plaintiff be awarded such further relief at law or in equity as the Court deems just and proper.

Dated: June 3, 2024

Respectfully submitted,

/s/ Isaac Rabicoff  
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**Counsel for Plaintiff**  
**Pointwise Ventures LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on June 3, 2024, I electronically filed the above documents with the Clerk of Court using CM/ECF which will send electronic notification of such filings to all registered counsel.

*/s/ Isaac Rabicoff*  
Isaac Rabicoff