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 MASTEROBJECTS, INC.

10
 11 UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION
 14

15 MASTEROBJECTS, INC.,
 16
 Plaintiff,
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 v.
 18
 MICROSOFT CORP.,
 19
 Defendant.
 20

Case No. CV 11-2402 EMC

**ORIGINAL COMPLAINT AND
 DEMAND FOR JURY TRIAL**

1 Plaintiff MasterObjects, Inc. (“MasterObjects” or “Plaintiff”) hereby files its
2 complaint against defendant Microsoft Corporation (“Microsoft” or “Defendant”), for patent
3 infringement. For its complaint, Plaintiff alleges, on personal knowledge as to its own acts
4 and on information and belief as to all other matters, as follows:

5 **PARTIES**

6 1. MasterObjects is a corporation organized under the laws of the State of
7 Delaware, with its principal place of business in San Francisco, California, prior to January 1,
8 2010, and now Maarsse, Netherlands.

9 2. Microsoft is a corporation organized under the laws of the State of Delaware,
10 with its principal place of business in Redmond, Washington.

11 **JURISDICTION AND VENUE**

12 3. This complaint asserts a cause of action for patent infringement under the
13 Patent Act, 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter by
14 virtue of 28 U.S.C. § 1338(a). Venue is proper in this Court by virtue of 28 U.S.C. § 1391(b)
15 and (c) and 28 U.S.C. § 1400(b), in that Microsoft may be found in this district, has
16 committed acts of infringement in this district, and a substantial part of the events giving rise
17 to the claim occurred in this district.

18 4. This Court has personal jurisdiction over Microsoft because Microsoft has a
19 place of business in, and provides infringing products and services in, the Northern District
20 of California.

21 **INTRADISTRICT ASSIGNMENT**

22 5. Pursuant to Civil LR 3-2(c), this case should be subject to district-wide
23 assignment because it is an Intellectual Property Action.

1 **I. STATEMENT OF FACTS.**

2 **A. The Plaintiff MasterObjects and its Instant Search Technology.**

3 6. From the earliest days of Internet search, the search process has been
4 hampered by what is known as the “request-response loop.” The user would type a query
5 into a static input field, click a “submit” or “search” button, wait for the query to be sent to a
6 remote database, wait for the result set to be returned to the server, wait for the server to
7 build an HTML page, wait for the page to load into the browser, and then wait for the client
8 window to be redrawn so that the result set could be viewed.
9

10 7. Inherent in the “request-response loop” is the pragmatic reality that, if the
11 result set did not match user expectations, the entire process had to be repeated, recursively,
12 until the results satisfied the user.

13 8. In 2000, Mark Smit, the founder of Plaintiff MasterObjects, invented a novel
14 approach to search, an approach that solved the “request-response loop” problem. Smit
15 envisioned a system where a dynamic and intelligent search field would immediately begin
16 submitting a search query as soon as the user began typing characters into the query field.
17 Using asynchronous communications technology, as the user typed more characters, the
18 results in the drop-down box would change dynamically, becoming increasingly relevant as
19 the string of characters lengthened. In essence, search would become effective and granular
20 at the *character* level, not the block request *submit* level. More, this would happen real-time,
21 as the user typed in characters, and not be dependent on hitting a “search” or “submit
22 button.”
23

24 9. MasterObjects filed its first patent application in August 2001, “System and
25 Method for Asynchronous Client Server Session Communication.”
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1 10. MasterObjects filed its second patent application in 2004, as a continuation-
2 in-part of the 2001 filing. This second application, titled “System and Method for Utilizing
3 Asynchronous Client Server Communications Objects,” issued as U.S. Patent No. 7,752,326
4 in July 2010 (“’326” or “instant search”).

5 11. The ’326 Abstract summarizes the invention as follows:

6 A session-based client-server asynchronous information
7 search and retrieval system for sending character-by-
8 character or multi-character strings of data to an intelligent
9 server, that can be configured to immediately analyze the
10 lengthening string and return to the client increasingly
11 appropriate search information. Embodiments include
12 integration within an Internet, web or other online
13 environment, including applications for use in interactive
14 database searching, data entry, online searching, online
purchasing, music purchasing, people-searching, and other
applications. In some implementations the system may be
used to provide dynamically focused suggestions, auto-
completed text, or other input-related assistance, to the
user.

15 12. MasterObjects makes and sells products that practice the ’326 patent, and
16 MasterObjects has been selling these products from approximately 2004 forward.
17 MasterObjects remains a going concern today, selling products that practice its patented
18 technology.

19 13. By May 2008, Microsoft had been notified in writing of the MasterObjects
20 technology, and its pursuit of patent protection for its inventions. Since that time,
21 Microsoft’s continuing manufacture, use and sale of the infringing products and services
22 identified below has been in deliberate disregard of a known risk that MasterObjects had a
23 protective patent covering those technologies.
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1 **B. The Infringing Microsoft Products.**

2 14. Microsoft products and services infringe the claims of MasterObjects’ ’326
3 patent, as set out below.

4 **Microsoft Bing**

5 15. Bing, formerly known as Live Search, Windows Live Search, and MSN
6 Search, is Microsoft’s flagship Internet search engine, available at www.bing.com. Visitors
7 to the site are presented with a large field for entry of text corresponding to a desired search
8 term. Microsoft Bing technology drives other search engine sites as well, including
9 Yahoo.com.

10 16. On information and belief, Microsoft enhanced the Internet search capabilities
11 of its search engine offering in 2006, with the introduction of Suggestions, a feature that
12 suggests to the user possible search queries as the user types. Prior to the implementation of
13 this feature, users of the Microsoft search engine were required to formulate their own search
14 query, type it in, click a “search” button, and wait for the search results to be delivered as a
15 series of web pages, and then, if the search results were not what was desired, refine the
16 search query and repeat the process again.

17 17. Using the Suggestions feature, as a visitor to Microsoft’s search site begins
18 typing individual characters in the search field, Microsoft’s enhanced search system
19 anticipates the user’s query, and asynchronously suggests complete queries that match or
20 enhance the partial query being typed by retrieving from Microsoft’s servers a set of
21 suggested queries. As the user types additional characters in the search box, the client
22 asynchronously communicates with the server, and the server returns a more focused and/or
23 predictive set of potentially matching queries to the user. This process continues as the user
24 continues to type characters, until a query is selected and search results are retrieved.
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1 18. These enhancements provide numerous benefits to Microsoft and its
2 customers, including speeding the search process, lessening user typing, catching mistakes
3 mid-query, and otherwise increasing user efficiency.

4 19. Beginning at least in March 2011, Microsoft has been providing previews of a
5 new version of Bing for HTML5-compatible browsers. Unlike previous versions of
6 Microsoft's search engine offering, this new version of Bing not only provides suggested
7 search queries as a user types, but also provides "instant" search results: using asynchronous
8 communication technology, search results are sent to the user as the user types, character-by-
9 character. Search results are changed based on the additional characters inputted by the user,
10 that is, as the query character string lengthens.
11

12 **Internet Explorer, Windows Phone, Browser Toolbars, and Mobile Applications**

13 20. Microsoft has now extended its enhanced search capabilities beyond the
14 Bing.com website, via its Internet Explorer browser, its Windows Phone mobile phone
15 software, browser toolbars for other browsers, and mobile Bing applications for the iOS and
16 Android software platforms. Each of these software applications provides a more focused
17 and/or predictive set of potentially matching queries to the user as the user types, utilizing
18 asynchronous communication technology to retrieve these queries from a server location.
19

20 **COUNT I**

21 **PATENT INFRINGEMENT**
22 **(The Instant Search Patent)**

23 21. On July 6, 2010, United States Patent No. 7,752,326 entitled "System and
24 Method For Utilizing Asynchronous Client Server Communications Objects" was duly
25 and legally issued. A true and correct copy of the '326 patent is attached as Exhibit A.
26

27 22. Mark Smit is the inventor of the '326 instant search patent. The '326
28

1 patent has been assigned to Plaintiff. Plaintiff MasterObjects is the sole legal and rightful
2 owner of the instant search patent.

3 23. Microsoft makes, uses, and sells products that infringe the instant search
4 patent, as alleged above in paragraphs 14 through 20 and incorporated here by reference.
5 This conduct constitutes infringement under 35 U.S.C. § 271(a).

6 24. In addition, Microsoft has infringed and is still infringing the instant search
7 patent in this country through, *inter alia*, its active inducement of others to make, use, and/or
8 sell the systems, products and methods claimed in one or more claims of the patents.

9 Microsoft supplies infringing products and technology to others, including Yahoo.

10 Microsoft's customers directly infringe the instant search patent, and were induced to do so
11 by Microsoft. Microsoft knows of the instant search patent and its contents, and has
12 deliberately disregarded a known risk that MasterObjects had obtained an instant search
13 patent. Microsoft actively and knowingly encouraged, aided and abetted its customers to
14 directly infringe the instant search patent. Microsoft offered its infringing products for sale
15 or distribution with the intent of promoting their use to infringe. Microsoft intentionally
16 encouraged its customers to infringe the instant search patent by advertising its products for
17 infringing uses, and instructing its customers how to use the products to engage in
18 infringement. Microsoft had specific intent to encourage customers to infringe the instant
19 search patent, knew of or deliberately disregarded a known risk that MasterObjects had
20 obtained an instant search patent, and knew or should have known that its actions would
21 encourage customers to actually infringe the instant search patent. This conduct constitutes
22 infringement under 35 U.S.C. § 271(b).

23 25. In addition, Microsoft has infringed and is still infringing the instant search
24 patent in this country through, *inter alia*, providing and selling goods and services including
25

1 the infringing products and services designed for use in practicing one or more claims of the
2 instant search patent, where the goods and services constitute a material part of the invention
3 and are not staple articles of commerce, and which have no use other than infringing one or
4 more claims of the instant search patent. Microsoft's customers commit the entire act of
5 direct infringement. Microsoft has committed these acts with knowledge that the goods and
6 services it provides are specially made for use in a manner that directly infringes the instant
7 search patent. This conduct constitutes infringement under 35 U.S.C. § 271(c).
8

9 26. As a result of the infringement by Microsoft, Plaintiff has been damaged, and
10 will continue to be damaged, until this Defendant is enjoined from further acts of
11 infringement.

12 27. Microsoft will continue to infringe unless enjoined by this Court. Plaintiff
13 faces real, substantial and irreparable damage and injury of a continuing nature from
14 infringement for which Plaintiff has no adequate remedy at law.
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16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for entry of judgment:

- 18 A. that the Patents-in-Suit are valid and enforceable;
- 19 B. that Defendant has infringed one or more claims of the Patents-in-Suit;
- 20 C. that Defendant account for and pay to Plaintiff all damages caused by the
21 infringement of the Patents-in-Suit, which by statute can be no less than a reasonable royalty;
22
- 23 D. that this Court issue a preliminary and final injunction enjoining Microsoft, its
24 officers, agents, servants, employees and attorneys, and any other person in active concert or
25 participation with them, from continuing the acts herein complained of, and more
26 particularly, that Microsoft and such other persons be permanently enjoined and restrained
27 from further infringing the instant search patent;
28

1 E. that Plaintiff be granted pre-judgment and post-judgment interest on the
2 damages caused to them by reason of Defendant's infringement of the Patents-in-Suit;

3 F. that this Court require Defendant to file with this Court, within thirty (30)
4 days after entry of final judgment, a written statement under oath setting forth in detail the
5 manner in which Defendant has complied with the injunction;

6 G. that this be adjudged an exceptional case and the Plaintiff be awarded its
7 attorney's fees in this action pursuant to 35 U.S.C. § 285;

8 H. that this Court award Plaintiff its costs and disbursements in this civil
9 action, including reasonable attorney's fees; and
10

11 I. that Plaintiff be granted such other and further relief as the Court may
12 deem just and proper under the current circumstances.

13 Dated: May 17, 2011

Respectfully submitted,

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15
16 /s/ Spencer Hosie

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