



rights and interest in the '843 patent. A true and correct copy of the '843 patent is attached hereto as Exhibit A.

5. Upon information and belief, Microsoft has infringed, contributed to infringement, induced infringement, and continues to infringe the '843 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of Microsoft Windows XP; and inducement of others to manufacture, use, sell, import, and/or offer for sale of such products. Microsoft is liable for infringement of the '843 patent pursuant to 35 U.S.C. § 271.

6. Microsoft's acts of infringement have caused damage to Sklar and Sklar is entitled to recover from Microsoft the damages sustained by Sklar as a result of Microsoft's wrongful acts in an amount subject to proof at trial. Microsoft's infringement of Sklar's exclusive rights under the '843 patent will continue to damage Sklar, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

7. Upon information and belief, Microsoft has knowledge of its infringement of the '843 patent, yet Microsoft continues to infringe said patent. Microsoft's infringement of the '843 patent is willful and deliberate, entitling Sklar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

#### **INFRINGEMENT OF U.S. PATENT NO. 6,243,094**

8. On June 5, 2001, United States Patent No. 6,243,094 (the "'094 patent") was duly and legally issued for inventions entitled "Clustering User Interface." Sklar holds all rights and interest in the '094 patent. A true and correct copy of the '094 patent is attached hereto as Exhibit B.

9. Upon information and belief, Microsoft has infringed, contributed to infringement, induced infringement, and continues to infringe the '094 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of Microsoft Windows XP; and inducement of others to manufacture, use, sell, import, and/or offer for sale of such products. Microsoft is liable for infringement of the '094 patent pursuant to 35 U.S.C. § 271.

10. Microsoft's acts of infringement have caused damage to Sklar and Sklar is entitled to recover from Microsoft the damages sustained by Sklar as a result of Microsoft's wrongful acts in an amount subject to proof at trial. Microsoft's infringement of Sklar's exclusive rights under the '094 patent will continue to damage Sklar, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

11. Upon information and belief, Microsoft has knowledge of its infringement of the '094 patent, yet Microsoft continues to infringe said patent. Microsoft's infringement of the '094 patent is willful and deliberate, entitling Sklar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Sklar requests entry of judgment in his favor and against Microsoft as follows:

- a) Declaration that Microsoft has infringed U.S. Patent Nos. 6,025,843 and 6,243,094;
- b) Permanently enjoining Microsoft, its officers, agents, employees, and those acting in privity with them, from further infringement, contributory infringement and/or inducing infringement of U.S. Patent Nos. 6,025,843 and 6,243,094;
- c) Awarding the damages arising out of Microsoft's infringement of U.S. Patent Nos. 6,025,843 and 6,243,094, including enhanced damages pursuant to 35 U.S.C. § 284, to Sklar, together with prejudgment and post-judgment interest, in an amount according to proof;
- d) An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and
- e) For such other costs and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Sklar hereby demands a trial by jury on all issues.

DATED: January 6, 2006

Respectfully submitted,

SUSMAN GODFREY, L.L.P

By:

*Stephen D. Susman* *S. Calvin Capshaw*  
Stephen D. Susman - Attorney-in-Charge

State Bar No. 1952100

ssusman@susmangodfrey.com

Max L. Tribble, Jr.

State Bar No. 20213950

mtribble@susmangodfrey.com

Joseph S. Grinstein

State Bar No. 24002188

jgrinstein@susmangodfrey.com

1000 Louisiana Street, Suite 5100

Houston, Texas 77002

Telephone: (713) 651-9366

Facsimile: (713) 654-6666

Attorneys for Plaintiff  
PETER SKLAR

OF COUNSEL:

Franklin Jones, Jr.

State Bar No. 00000055

JONES AND JONES, INC., P.C.

201 West Houston Street

P.O. Drawer 1249

Marshall, TX 75671-1249

Telephone: (903) 938-4395

Facsimile: (903) 938-3360

maizieh@millerfirm.com

Otis W. Carroll

State Bar No. 03895700

nancy@icklaw.com

IRELAND CARROLL AND KELLEY, P.C.

6101 South Broadway, Suite 500

P.O. Box 7879

Tyler, Texas 75711

Telephone: (903) 561-1600

Facsimile: (903) 561-1071

S. Calvin Capshaw

State Bar No. 03783900

ccapshaw@mailbmc.com

BROWN McCARROLL, LLP

1127 Judson Road, Suite 220

P.O. Box 3999

Longview, Texas 75601-5157

Telephone: (903) 236-9800

Facsimile: (903) 236-8787

Byron W. Cooper  
CA State Bar No. 166578  
bwc@townsend.com  
Gregory S. Bishop  
CA State Bar No. 184680  
gsbishop@townsend.com  
TOWNSEND AND TOWNSEND AND CREW LLP  
379 Lytton Avenue  
Palo Alto, CA 94301  
Telephone: (650) 326-2400  
Facsimile: (650) 326-2422

60672401 v1

**EXHIBIT A**