

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
IN CLERKS OFFICE

2002 SEP -6 P 12: 14

FRED B. DUFRESNE

Plaintiff,

vs.

MICROSOFT CORPORATION,

ADOBE SYSTEMS INC.,

MACROMEDIA, INC. and

TRELLIX CORPORATION

Defendants.

Civ. A. No.

JURY TRIAL DEMANDED

U.S. DISTRICT COURT  
DISTRICT OF MASS.

02-11778 RCL

RECEIPT # 41683  
AMOUNT \$ 150.00  
COURT NO. Y-4  
LAWYER'S FEE  
WARRANT FEE  
MOTION FEE  
AD. EXP. ON FILE  
BY DEPT. CLERK  
DATE 9-6-02

COMPLAINT

Plaintiff Fred B. DuFresne ("DuFresne" or "Plaintiff") as and for his Complaint against defendants Microsoft Corporation, Adobe Systems, Inc, Macromedia, Inc. and Trellix Corporation (together "Defendants") alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), (c) and §1400(b).

PARTIES

3. Plaintiff Fred B. DuFresne is an individual and resident of the Commonwealth of Massachusetts residing at 61 Rocky Pond Road, Plymouth, Massachusetts 02360.

1

4. Defendant Microsoft Corporation (“Microsoft”) is a Washington corporation having a place of business at 890 Winter Street in Waltham, Massachusetts 02451, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

5. Defendant Adobe Systems Inc. (“Adobe”) is a Delaware corporation having a place of business at 1601 Trapelo Road in Waltham, Massachusetts 02451, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

6. Defendant Macromedia, Inc. (“Macromedia”) is a Delaware corporation having a place of business at 275 Grove Street in Newton, Massachusetts 02466, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

7. Defendant Trellix Corporation (“Trellix”) is a Massachusetts Corporation having a place of business at 300 Baker Avenue in Concord, Massachusetts 01742, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

**COUNT I**

(Infringement of U.S. Patent No. 5,835,712)

8. The allegations of paragraphs 1 – 7 above are incorporated herein by reference.

9. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. § 271 et seq.

10. Plaintiff Fred B. DuFresne is the owner of U.S. Patent No. 5,835,712 (“the ‘712 patent”) that was duly and legally issued on November 10, 1998 and is entitled “Client-Server System Using Embedded Hypertext Tags For Application And Database Development”.

11. In violation of one or more provisions of 35 U.S.C. § 271, Defendants have infringed, and continue to infringe one or more of the claims of the ‘712 patent by making, using, selling and/or offering for sale, *inter alia*, products supporting Microsoft Active Server Pages

technology, JAVA Server Pages technology or Coldfusion technology in this judicial district and elsewhere.

12. Defendants' acts of infringement are willful.

13. Defendants' acts of infringement have caused reparable and irreparable damage to Plaintiff and Plaintiff will continue to suffer damage unless Defendants are enjoined.

WHEREFORE, Plaintiff prays that the Court:

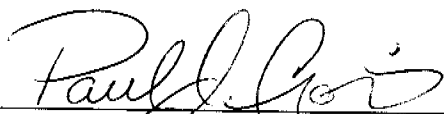
- A. Enter judgment that Defendants have infringed U.S. Patent No. 5,835,712;
- B. Enter judgment that Defendants' acts of patent infringement are willful;
- C. Temporarily, preliminarily and permanently enjoin Defendants, their parents, subsidiaries, affiliates, divisions, officers, agents, servants, employees, directors, partners, representatives, and all parties in active concert and/or participation with them, from engaging in the aforesaid unlawful acts of infringement;
- D. Order Defendants to account for and pay to Plaintiff all damages caused to Plaintiff by Defendants' unlawful acts;
- E. Award Plaintiff increased damages and attorney fees pursuant to 35 U.S.C. §§ 284 and 285;
- F. Award Plaintiff his interest and costs incurred in this action; and
- G. Grant Plaintiff such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial of all issues triable of right by jury.

**FRED B. DUFRESNE**

Dated: 9/6/02

By: 

Paul J. Hayes, Esq. (BBO # 227,000)

David Crosby, Esq. (BBO # 634,640)

Paul J. Cronin, Esq. (BBO # 641,230)

MINTZ, LEVIN, COHN, FERRIS,

GLOVSKY AND POPEO, P.C.

One Financial Center

Boston, MA 02111

(617) 542-6000 (Telephone)

(617) 542-2241 (Facsimile)

Attorneys for Plaintiff

LIT 1349303v3

JS 44  
(Rev. 3/99)

# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
FRED B. DUFRESNE

**DEFENDANTS**  
MICROSOFT CORPORATION  
ADOBE SYSTEMS, INC.  
MACROMEDIA, INC.  
TRELIX CORPORATION

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF** PLYMOUTH  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT MIDDLESEX  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

**(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**  
PAUL J. HAYES, BBO #227000  
DAVID CROSSBY, BBO #634640  
PAUL J. CRONIN, BBO#641230  
Mintz, Levin Cohn, Ferris, Glovsky and Popeo, P.C.  
One Financial Center, Boston, MA 02111  
617-542-6000

ATTORNEYS (IF KNOWN)

**II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)**

1 U.S. Government Plaintiff  
 3 Federal Question (U.S. Government Not a Party)  
 2 U.S. Government Defendant  
 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)**

|   |                            |                            |  |                            |                            |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
|   | PTF                        | DEF                        |  | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State            | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In <i>Another</i> State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)**

| CONTRACT   | TORTS   | FORFEITURE/PENALTY   | BANKRUPTCY   | OTHER STATUTES   |  |
|--|---|--|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Ad<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><br><b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 440 Other Civil Rights | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth In Lending<br><input type="checkbox"/> 385 Other Personal Property Damage<br><input type="checkbox"/> 380 Property Damage Product Liability<br><br><b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to vacate Sentence<br><b>HABEAS CORPUS:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 550 Prison Condition | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input checked="" type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 881 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commercial/ICC Rates/etc.<br><input type="checkbox"/> 480 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 801 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes<br><input type="checkbox"/> 890 Other Statutory Actions |

**V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)**

1 Original Proceeding  
 2 Removed from State Court  
 3 Remanded from Appellate Court  
 4 Reinstated or Reopened  
 5 Transferred from another district (specify)  
 6 Multidistrict Litigation  
 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)** PATENT INFRINGEMENT 35 U.S.C. § 271

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION  UNDER FR C.P. 23 DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in JURY DEMAND:  YES  NO

**VIII. RELATED CASE(S) (See instructions):** IF ANY

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE  
SEPTEMBER 6, 2002

SIGNATURE OF ATTORNEY OF RECORD  
*Paul J. Hayes*

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) FRED B. DUFRESNE V. MICROSOFT CORPORATION

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(I)).

- I. 160, 410,470, R23, REGARDLESS OF NATURE OF SUIT.
- X   II. 195, 368, 400, 440, 441-444, 540, 550, 625, 710, 720, 730, 740, 790, 791, 820\*, (830\*) 840\*, 850, 890, 892-894, 895, 950.
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

\*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

**02-11778 RCL**

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)).

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?  
YES  NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS EFFECTING THE PUBLIC INTEREST? (SEE 28 USC 2403) YES  NO   
IF SO, IS THE U.S.A. OF AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? (SEE 28 USC 2403) YES  NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC2284? YES  NO

7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) (SEE LOCAL RULE 40.1(C)). YES  NO   
OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? - (SEE LOCAL RULE 40.1(D)). YES  NO

8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT? YES  NO

(a) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE?       

9. IN WHICH SECTION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? EASTERN

10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE  
CENTRAL SECTION YES  NO  OR WESTERN SECTION YES  NO   
(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME PAUL J. HAYES  
DAVID CROSBY  
PAUL J. CRONIN  
ADDRESS MINTZ, LEVIN, COHN, FERRIS,  
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- V. 150, 152, 153.

\*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

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IF SO, IS THE U.S.A. OF AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? (SEE 28 USC 2403) YES  NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284? YES  NO

7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) (SEE LOCAL RULE 40.1(C)). YES  NO   
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8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT? YES  NO

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CENTRAL SECTION YES  NO  OR WESTERN SECTION YES  NO

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