

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

SOFTVAULT SYSTEMS, INC.	§	
	§	
Plaintiff,	§	
vs.	§	
	§	Civ. Action No. 02-06CV-16
MICROSOFT CORPORATION	§	
	§	
Defendant.	§	

FIRST AMENDED COMPLAINT

Plaintiff SoftVault Systems, Inc. (“SoftVault”) brings this action against Defendant Microsoft Corporation (“Microsoft”) and for its causes of action alleges:

The Parties

1. SoftVault is a corporation organized and existing under the laws of the State of Washington with its principle place of business in the State of Washington.
2. Upon information and belief, Microsoft is a corporation organized and existing under the laws of the State of Washington and is doing business in this judicial district and elsewhere. Microsoft may be served with process by serving its counsel of record.

Jurisdiction and Venue

3. This action arises under the patent laws of the United States, Title 35 United States Code, particularly §§ 271 and 281 and Title 28 United States Code, particularly §1338(a). Venue is proper in this Court under Title 28 United States Code §§ 1391(b) and (c) and 1400(b).

Claims for Patent Infringement

4. On June 19, 2001, U.S. Patent No. 6,249,868 (“the ‘868 patent”) was duly and legally issued for “Method and System for Embedded, Automated, Component-level Control of Computer Systems and Other Complex Systems”. A copy of the ‘868 patent is attached as Exhibit A and is made a part hereof. By assignment, SoftVault is the owner of the ‘868 patent and at all relevant times has had the right to enforce the ‘868 patent.

5. On July 15, 2003 U.S. Patent No. 6,594,765 (“the ‘765 patent”) was duly and legally issued for “Method and System for Embedded, Automated, Component-level Control of Computer Systems and Other Complex Systems”. A copy of the ‘765 patent is attached as Exhibit B and is made a part hereof. By assignment, SoftVault is the owner of the ‘765 patent and at all relevant times has had the right to enforce the ‘765 patent.

6. The ‘868 and ‘765 patents, in general, relate to a method and system of protecting an electronic device or its components, software or otherwise. More particularly, certain claims of the ‘868 and ‘765 patent relate to enabling or disabling a component of an electronic device via communication with a remote server.

7. On information and belief, Microsoft provides software and services for use on consumer electronics, personal computers, which include the ability to enable operation of the software through an authorization process with a remote server. Products having this feature include at least the following: Windows Server 2003, Plus! Digital Media Edition, Windows® XP Professional, Windows XP Home Edition, Microsoft Office XP Standard, Microsoft Office XP Professional, Microsoft Office XP Professional with FrontPage®, Microsoft Office XP Developer, Microsoft Access 2002, Microsoft Excel 2002, Microsoft FrontPage 2002, Microsoft Outlook® 2002, Microsoft PowerPoint® 2002, Microsoft Project

2002, Microsoft Publisher® 2002, Microsoft Visio® 2002, Microsoft Word 2002, Microsoft Visio Enterprise Network Tools, Microsoft Visual Studio .Net, Microsoft Office 2000 SR-1, Microsoft Project 2000 SR-1, Microsoft Office 2003 Professional, Microsoft Office 2003, Standard, Microsoft Office 2003 Small Business Edition, Microsoft Access 2003, Microsoft Excel 2003, Microsoft FrontPage 2003, Microsoft InfoPath 2003, Microsoft OneNote® 2003, Microsoft Outlook 2003, Microsoft PowerPoint 2003, Microsoft Project 2003, Microsoft Project Professional 2003, Microsoft Visio 2003 Office 2003, Microsoft Visio Professional 2003, and Microsoft Word 2003, (the “WPA Products”).

8. By providing the WPA Products and/or services, Microsoft has in the past and continues to infringe directly, by inducement, or by contributing to the infringement of the ‘765 patent, including but not limited to claim 11, and the ‘868 patent including but not limited to claim 19.

9. Further, upon information and belief, Microsoft provides software and services under the brand name Windows Media Digital Rights Management (DRM) which have the ability to enable or disable operation of software via communication with a remote server (the “DRM Products”).

10. By providing the DRM Products and/or services, Microsoft has in the past and continues to infringe directly, by inducement, or by contributing to the infringement of the ‘868 patent, including but not limited to claim 19, and the ‘765 patent, including but not limited to claims 11 and 12.

11. As a result of Microsoft’s infringing conduct, Microsoft has damaged SoftVault. Microsoft is liable to SoftVault in an amount that adequately compensates SoftVault for its infringement, which by law in no event can be less than a reasonable royalty.

12. As a consequence of Microsoft's infringement, SoftVault has been irreparably damaged and such damage will continue without the issuance of an injunction by this Court.

Demand for Jury Trial

13. SoftVault demands a jury trial on all claims and issues.

Prayer For Relief

WHEREFORE, SoftVault prays for entry of judgment:

A. That claim 19 of U.S. Patent 6,249,868 and claims 11 and 12 of 6,594,765 have been infringed by Microsoft and by others whose infringement has been contributed to and/or induced by Microsoft;

B. That Microsoft and each of its officers, agents, employees, representatives, successors, assigns and those acting in privity or concert with them be permanently enjoined from further infringement of U.S. Patents 6,249,868, and 6,594,765.

C. That Microsoft account for and pay to SoftVault all damages and costs caused by Microsoft's activities complained of herein;

D. That SoftVault be granted pre-judgment and post-judgment interest on the damages caused by reason of Microsoft's activity complained of herein;

E. That SoftVault be granted its attorneys' fees in this action;

F. That costs be awarded to SoftVault; and

G. That SoftVault be granted such other and further relief that is just and proper under the circumstances.

Respectfully submitted,

Date: 03/27/06

/s/ T. John Ward, Jr.

T. John Ward, Jr.
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