1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON 9 AT SEATTLE 10 MICROSOFT CORPORATION, 11 Case No. Plaintiff, 12 COMPLAINT FOR PATENT VS. **INFRINGEMENT** 13 BARNES & NOBLE, INC., **JURY DEMANDED** BARNESANDNOBLE.COM LLC, HON 14 HAI PRECISION INDUSTRY CO., LTD., 15 FOXCONN INTERNATIONAL HOLDINGS LTD., FOXCONN 16 ELECTRONICS, INC., FOXCONN PRECISION COMPONENT (SHENZHEN) 17 CO., LTD., and INVENTEC CORPORATION, 18 Defendants. 19 20 Plaintiff Microsoft Corporation ("Microsoft"), for its Complaint for Patent 21 Infringement against Defendants Barnes & Noble, Inc.; barnesandnoble.com LLC; Hon Hai 22 Precision Industry Co., Ltd.; Foxconn International Holdings Ltd.; Foxconn Electronics, Inc.; 23 Foxconn Precision Component (Shenzhen) Co., Ltd.; and Inventec Corporation (collectively, 24 "Defendants"), alleges as follows: 25 COMPLAINT FOR PATENT LAW OFFICES INFRINGEMENT - 1

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PARTIES

- 1. Plaintiff Microsoft is a Washington corporation having its principal place of business at One Microsoft Way, Redmond, Washington 98052.
- 2. On information and belief, Defendant Barnes & Noble, Inc. is a Delaware corporation with its principal place of business at 122 Fifth Avenue, New York, New York 10011.
- 3. On information and belief, Defendant barnesandnoble.com LLC is a Delaware limited liability company with its principal place of business at 122 Fifth Avenue, New York, New York 10011.
- 4. On information and belief, Defendant Hon Hai Precision Industry Co., Ltd. operates under the registered trade name "Foxconn," and exists under the laws of the Republic of China, with its principal place of business at 2 Zihyou Street, Tucheng City, Taipei County, 236 Taiwan.
- 5. On information and belief, Defendant Foxconn International Holdings Ltd. is a subsidiary of Hon Hai Precision Industry Co., Ltd. and exists under the laws of the People's Republic of China in the Special Administrative Region of Hong Kong, with its principal place of business at 8F Peninsula Tower, 538 Castle Peak Road, Cheung Sha Wan Kowloon, New Territories, Hong Kong.
- 6. On information and belief, Defendant Foxconn Electronics, Inc. is a subsidiary of Defendant Hon Hai Precision Industry Co., Ltd., and exists under the laws of the Republic of China, with its principal place of business at 2 Zihyou Street, Tucheng City, Taipei County, 236 Taiwan.
- 7. On information and belief, Defendant Foxconn Precision Component (Shenzhen) Co. Ltd. is a wholly owned subsidiary of Defendant Foxconn Electronics, Inc., and exists under the laws of the Republic of China, with a principal place of business at No. 2, East Ring Road, No. 10 Industrial Zone, Yousong, Longhua, Shenzhen, Guandong 518109, PRC.

- 8. On information and belief, Defendant Inventec Corporation exists under the laws of the Republic of China, with its principal place of business at Inventec Building, No. 66 Hou-Kang Street, Shin-Lin District, Taipei County, 111 Taiwan.
- 9. On information and belief, Defendants are engaged in the design, manufacture, sale within the United States, offering for sale in the United States, use within the United States, importation into the United States, and/or sale after importation into the United States of handheld electronic computing devices utilizing the Android operating system, including related software, and components thereof. On information and belief, Defendants market and sell these devices worldwide through their channel business partners and various retailers, including through retail stores and company websites.

JURISDICTION AND VENUE

- 10. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.
- 11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
- 12. On information and belief, Defendants are subject to personal jurisdiction in the Western District of Washington (the "District"), consistent with the principles of due process and the Washington Long Arm Statute, because Defendants maintain offices and facilities in this District, offer their products for sale in this District, have transacted business in this District, have committed and/or induced acts of patent infringement in this District, and/or have placed infringing products into the stream of commerce through established distribution channels with the expectation that such products will be purchased by residents of this District.
- 13. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391(d), and 1400(b).

PATENT INFRINGEMENT COUNTS

14. Microsoft is the owner of all right, title, and interest in U.S. Patent No.

5,778,372 (the "'372 patent"), U.S. Patent No. 6,339,780 (the "'780 patent"), U.S. Patent No. 5,889,522 (the "'522 patent"), U.S. Patent No. 6,891,551 (the "'551 patent"), and U.S. Patent No. 6,957,233 (the "'233 patent") (collectively, the "Microsoft Patents"), which Defendants are infringing and/or inducing others to infringe by making, using, offering to sell, and/or selling in the United States, and/or importing into the United States, products or processes that practice one or more inventions claimed in the Microsoft Patents.

- 15. Defendants have profited through infringement of the Microsoft Patents. As a result of Defendants' unlawful infringement of the Microsoft Patents, Microsoft has suffered and will continue to suffer damage. Microsoft is entitled to recover from Defendants the damages suffered by Microsoft as a result of Defendants' unlawful acts.
- 16. On information and belief, Defendants' infringement of one or more of the Microsoft Patents is willful and deliberate, entitling Microsoft to enhanced damages and reasonable attorney fees and costs.
- 17. On information and belief, Defendants intend to continue their unlawful infringing activity, and Microsoft continues to and will continue to suffer irreparable harm—for which there is no adequate remedy at law—from such unlawful infringing activity unless Defendants are enjoined by this Court.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 5,778,372

- 18. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-17.
- 19. Microsoft is the owner of all right, title, and interest in the '372 patent, entitled "Remote Retrieval and Display Management of Electronic Document with Incorporated Images," duly and properly issued by the U.S. Patent and Trademark Office on July 7, 1998. A copy of the '372 patent is attached as Exhibit A.
 - 20. Defendants have been and/or are directly infringing and/or inducing

infringement of and/or contributorily infringing the '372 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 1 and 5 of the '372 patent, including, by way of example and not limitation, the Barnes & Noble Nook and Nook Color, and the related software loaded onto these handheld electronic computing devices.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 6,339,780

- 21. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-20.
- 22. Microsoft is the owner of all right, title, and interest in the '780 patent, entitled "Loading Status in a Hypermedia Browser Having a Limited Available Display Area," duly and properly issued by the U.S. Patent and Trademark Office on January 15, 2002. A copy of the '780 patent is attached as Exhibit B.
- 23. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '780 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 1-6, 9-14, 17-26, and 29-42 of the '780 patent, including, by way of example and not limitation, the Barnes & Noble Nook, and the related software loaded onto this handheld electronic computing device.

COUNT III

INFRINGEMENT OF U.S. PATENT NO. 5,889,522

- 24. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-23.
- 25. Microsoft is the owner of all right, title, and interest in the '522 patent, entitled "System Provided Child Window Controls," duly and properly issued by the U.S. Patent and Trademark Office on March 30, 1999. A copy of the '522 patent is attached as Exhibit C.

26. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '522 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 1, 2, and 12 of the '522 patent, including, by way of example and not limitation, the Barnes & Noble Nook Color, and the related software loaded onto this handheld electronic computing device.

COUNT IV

INFRINGEMENT OF U.S. PATENT NO. 6,891,551

- 27. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-26.
- 28. Microsoft is the owner of all right, title, and interest in the '551 patent, entitled "Selection Handles in Editing Electronic Documents," duly and properly issued by the U.S. Patent and Trademark Office on May 10, 2005. A copy of the '551 patent is attached as Exhibit D.
- 29. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '551 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 1-3, 5, and 7-11 of the '551 patent, including, by way of example and not limitation, the Barnes & Noble Nook and Nook Color, and the related software loaded onto these handheld electronic computing devices.

COUNT V

INFRINGEMENT OF U.S. PATENT NO. 6,957,233

- 30. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-29.
- 31. Microsoft is the owner of all right, title, and interest in the '233 patent, entitled "Method and Apparatus for Capturing and Rendering Annotations for Non-modifiable

Electronic Content," duly and properly issued by the U.S. Patent and Trademark Office on October 18, 2005. A copy of the '233 patent is attached as Exhibit E.

32. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '233 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 21 and 22 of the '233 patent, including, by way of example and not limitation, the Barnes & Noble Nook Color, and the related software loaded onto this handheld electronic computing device.

DEMAND FOR JURY TRIAL

33. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Microsoft respectfully requests a trial by jury of all issues properly triable by jury.

PRAYER FOR RELIEF

WHEREFORE, Microsoft prays for relief as follows:

- A. For a judgment declaring that Defendants have infringed each of the Microsoft Patents;
- B. For a judgment awarding Microsoft compensatory damages as a result of Defendants' infringement of the Microsoft Patents, together with interest and costs, and in no event less than a reasonable royalty;
- C. For a judgment declaring that Defendants' infringement of Microsoft Patents has been willful and deliberate;
- D. For a judgment awarding Microsoft treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendants' willful and deliberate infringement of the Microsoft Patents;
- E. For a judgment declaring that this case is exceptional and awarding Microsoft its expenses, costs, and attorneys fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

1	F. For a grant of a permanent injunction pursuant to 35 U.S.C. § 283, enjoining the	
2	Defendants from further acts of infringement; and	
3	G. For such other and further relief as the Court deems just and proper.	
4	DATED this 21 st day of March, 2011.	
5		DANIELSON HARRIGAN LEYH & TOLLEFSON LLP
6		
7		By <u>/s/ Shane Cramer</u> Arthur W. Harrigan, Jr., WSBA #1751
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	COMPLAINT FOR PATENT	

INFRINGEMENT - 8

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