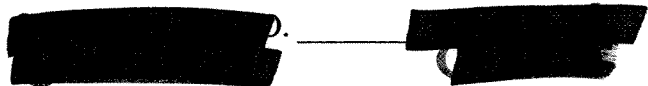


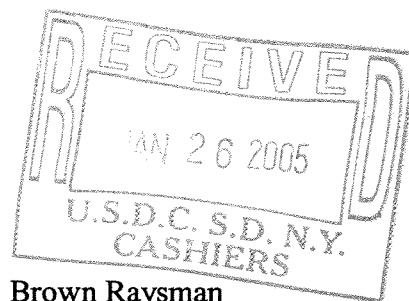
UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

----- X  
 MICROMUSE INC., :  
 :  
 Plaintiff, :  
 :  
 v. :  
 AGILENT TECHNOLOGIES, INC., :  
 :  
 Defendant. :  
 :  
 ----- X

05 CV 893



**JURY TRIAL DEMANDED**



**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Micromuse Inc. ("Micromuse"), by and through its counsel, Brown Raysman Millstein Felder & Steiner LLP, as and for its Complaint for Patent Infringement (the "Complaint") against defendant Agilent Technologies, Inc. ("Agilent"), states as follows:

**THE PARTIES**

1. Micromuse is a Delaware corporation with offices at 39 Broadway New York, New York 10006.
2. Upon information and belief, Agilent is a Delaware corporation with a principal place of business at 395 Page Mill Road, Palo Alto, California 94306, and with offices in New York at 300 Westage Business Center, Fishkill, New York 12524 and 105 Maxess Road, Melville, New York 11747.
3. Upon information and belief, Agilent is doing business and committing acts of patent infringement in this judicial district and elsewhere.

**JURISDICTION AND VENUE**

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 et seq. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. §§ 1400(b).

**COUNT I**

**Infringement Of United States Patent No. 6,192,034**

6. Micromuse repeats the allegations contained in Paragraphs 1 through 5 as though fully set forth herein.

7. On February 20, 2001, United States Patent No. 6,192,034 (the “‘034 Patent”), entitled SYSTEM AND METHOD FOR NETWORK INTEGRITY MANAGEMENT duly and legally issued. Micromuse is the owner by assignment of the ‘034 Patent. A copy of the ‘034 Patent is annexed hereto as Exhibit 1.

8. Upon information and belief, Agilent has been, still is, and will continue infringing, contributing to the infringement of, and/or inducing the infringement of the ‘034 Patent under 35 U.S.C. § 271 by making, selling, using and/or offering for sale one or more of its products, including, but not limited to, its OSS Service Assurance Solution Products, including one or more of its NETeXPERT VSM, Firehunter, and/or Service Assurance Application products, alone and/or in combination with its other products.

9. Upon information and belief, Agilent’s infringement of the ‘034 Patent has been and continues to be willful, entitling Micromuse to enhanced damages pursuant to 35 U.S.C. § 284.

10. As a result of Agilent’s infringement of the ‘034 Patent, Micromuse has suffered damages in an amount to be determined, and will continue to suffer damages in the future.

11. Unless an injunction is issued enjoining Agilent and its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from infringing the '034 Patent, Micromuse will be greatly and irreparably harmed.

**COUNT II**

**Infringement Of United States Patent No. 6,219,648**

12. Micromuse repeats the allegations contained in Paragraphs 1 through 11 as though fully set forth herein.

13. On April 17, 2001, United States Patent No. 6,219,648 (the "'648 Patent'") entitled APPARATUS AND METHOD FOR MONITORING PROGRESS OF CUSTOMER GENERATED TROUBLE TICKETS duly and legally issued. Micromuse is the owner by assignment of the '648 Patent. A copy of the '648 Patent is annexed hereto as Exhibit 2.

14. Upon information and belief, Agilent has been, still is, and will continue infringing, contributing to the infringement of, and/or inducing the infringement of the '648 Patent under 35 U.S.C. § 271 by making, selling, using and/or offering for sale one or more of its products, including, but not limited to, its OSS Service Assurance Solution Products, including one or more of its NETeXPERT VSM, Firehunter, and/or Service Assurance Application products, alone and/or in combination with its other products.

15. Upon information and belief, Agilent's infringement of the '648 Patent has been and continues to be willful, entitling Micromuse to enhanced damages pursuant to 35 U.S.C. § 284.

16. As a result of Agilent's infringement of the '648 Patent, Micromuse has suffered damages in an amount to be determined, and will continue to suffer damages in the future.

17. Unless an injunction is issued enjoining Agilent and its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from infringing the '648 Patent, Micromuse will be greatly and irreparably harmed.

**COUNT III**

**Infringement Of United States Patent No. 6,330,598**

18. Micromuse repeats the allegations contained in Paragraphs 1 through 17 as though fully set forth herein.

19. On December 11, 2001, United States Patent No. 6,330,598 (the "'598 Patent") entitled GLOBAL SERVICE MANAGEMENT SYSTEM FOR AN ADVANCED INTELLIGENT NETWORK duly and legally issued. Micromuse is the owner by assignment of the '598 Patent. A copy of the '598 Patent is annexed hereto as Exhibit 3.

20. Upon information and belief, Agilent has been, still is, and will continue infringing, contributing to the infringement of, and/or inducing the infringement of the '598 Patent under 35 U.S.C. § 271 by making, selling, using and/or offering for sale one or more of its products, including, but not limited to, its OSS Service Assurance Solution Products, including one or more of its NETeXPERT VSM, Firehunter, and/or Service Assurance Application products, alone and/or in combination with its other products.

21. Upon information and belief, Agilent's infringement of the '598 Patent has been and continues to be willful, entitling Micromuse to enhanced damages pursuant to 35 U.S.C. § 284.

22. As a result of Agilent's infringement of the '598 Patent, Micromuse has suffered damages in an amount to be determined, and will continue to suffer damages in the future.

23. Unless an injunction is issued enjoining Agilent and its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from infringing the '598 Patent, Micromuse will be greatly and irreparably harmed.

**COUNT IV**

**Infringement Of United States Patent No. 6,763,333**

24. Micromuse repeats the allegations contained in Paragraphs 1 through 23 as though fully set forth herein.

25. On July 13, 2004, United States Patent No. 6,763,333 (the "'333 Patent") entitled APPARATUS AND METHOD FOR MONITORING PROGRESS OF CUSTOMER GENERATED TROUBLE TICKETS duly and legally issued. Micromuse is the owner by assignment of the '333 Patent. A copy of the '333 Patent is annexed hereto as Exhibit 4.

26. Upon information and belief, Agilent has been, still is, and will continue infringing, contributing to the infringement of, and/or inducing the infringement of the '333 Patent under 35 U.S.C. § 271 by making, selling, using and/or offering for sale one or more of its products including, but not limited to, its OSS Service Assurance Solution Products, including one or more of its NETeXPERT VSM, Firehunter, and/or Service Assurance Application products, alone and/or in combination with its other products.

27. Upon information and belief, Agilent's infringement of the '333 Patent has been and continues to be willful, entitling Micromuse to enhanced damages pursuant to 35 U.S.C. § 284.

28. As a result of Agilent's infringement of the '333 Patent, Micromuse has suffered damages in an amount to be determined, and will continue to suffer damages in the future.

29. Unless an injunction is issued enjoining Agilent and its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from infringing the '333 Patent, Micromuse will be greatly and irreparably harmed.

**COUNT V**

**Infringement Of United States Patent No. 5,936,547**

30. Micromuse repeats the allegations contained in Paragraphs 1 through 29 as though fully set forth herein.

31. On August 10, 1999, United States Patent No. 5,936,547 (the "547 Patent") entitled SYSTEM AND METHOD FOR PROVIDING USER-SELECTED INFORMATION TO A PAGING-CAPABLE DEVICE duly and legally issued. A copy of the '547 Patent is annexed hereto as Exhibit 5.

32. Micromuse is a joint owner by assignment of the '547 Patent and has the exclusive right to enforce the '547 Patent against Agilent.

33. Upon information and belief, Agilent has been, still is, and will continue infringing, contributing to the infringement of, and/or inducing the infringement of the '547 Patent under 35 U.S.C. § 271 by making, selling, using and/or offering for sale one or more of its products, including, but not limited to, its OSS Service Assurance Solution Products, including one or more of its NETeXPERT VSM, Firehunter, and/or Service Assurance Application products, alone and/or in combination with its other products.

34. Upon information and belief, Agilent's infringement of the '547 Patent has been and continues to be willful, entitling Micromuse to enhanced damages pursuant to 35 U.S.C. § 284.

35. As a result of Agilent's infringement of the '547 Patent, Micromuse has suffered damages in an amount to be determined, and will continue to suffer damages in the future.

36. Unless an injunction is issued enjoining Agilent and its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from infringing the '547 Patent, Micromuse will be greatly and irreparably harmed.

## COUNT VI

### Infringement Of United States Patent No. 6,766,375

37. Micromuse repeats the allegations contained in Paragraphs 1 through 36 as though fully set forth herein.

38. On July 20, 2004, United States Patent No. 6,766,375 (the "'375 Patent'") entitled SYSTEM AND METHOD FOR PROTOCOL CONVERSION USING FACILITIES AND UTILITIES duly and legally issued. A copy of the '375 Patent is annexed hereto as Exhibit 6.

39. Micromuse is a joint owner by assignment of the '375 Patent and has the exclusive right to enforce the '375 Patent against Agilent.

40. Upon information and belief, Agilent has been, still is, and will continue infringing, contributing to the infringement of, and/or inducing the infringement of the '375 Patent under 35 U.S.C. § 271 by making, selling, using and/or offering for sale one or more of its products, including, but not limited to, its OSS Service Assurance Solution Products, including one or more of its NETeXPERT VSM, Firehunter, and/or Service Assurance Application products, alone and/or in combination with its other products.

41. Upon information and belief, Agilent's infringement of the '375 Patent has been and continues to be willful, entitling Micromuse to enhanced damages pursuant to 35 U.S.C. § 284.



42. As a result of Agilent's infringement of the '375 Patent, Micromuse has suffered damages in an amount to be determined, and will continue to suffer damages in the future.

43. Unless an injunction is issued enjoining Agilent and its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from infringing the '375 Patent, Micromuse will be greatly and irreparably harmed.

### **PRAYER FOR RELIEF**

WHEREFORE, Micromuse prays for judgment and relief as follows:

A. A declaration that Agilent has infringed, is infringing, has induced and is inducing, and has contributed and is contributing to the infringement of the 6,192,034; 6,219,648; 6,330,598; 6,763,333; 5,936,547; and 6,766,375 Patents (collectively, the "patents in suit");

B. A preliminary and permanent injunction enjoining Agilent, its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from further infringement, inducing infringement, and contributing to infringement of the patents in suit;

C. An award of damages in favor of Micromuse and against Agilent sufficient to fully compensate Micromuse for Agilent's infringement of the patents in suit, and an assessment of prejudgment interest and post-judgment interest;

D. A finding by the Court that Agilent's infringement of the patents in suit is willful, and an award of enhanced damages pursuant to 35 U.S.C. § 284;

E. A finding by the Court that this is an exceptional case under 35 U.S.C. § 285 and an award to Micromuse of its attorneys' fees, costs and expenses in this action; and



F. Such other and further relief as the Court deems just and equitable.

Dated: New York, New York  
January 26, 2005

BROWN RAYSMAN MILLSTEIN  
FELDER & STEINER LLP

By:   
\_\_\_\_\_

Seth H. Ostrow (SO 9605)

Jeffrey P. Weingart (JW 7145)

Frederick L. Whitmer (FW 8888)

Arianna Frankl (AF 7764)

Steven S. Rubin (SR 4709)

900 Third Avenue

New York, New York 10022

Telephone: (212) 895-2000

Facsimile: (212) 895-2900

Attorneys for Plaintiff Micromuse Inc.

555968

**DEMAND FOR JURY TRIAL**

Micromuse Inc. hereby demands trial by jury of all claims and issues so triable.

Dated: New York, New York  
January 26, 2005

BROWN RAYSMAN MILLSTEIN  
FELDER & STEINER LLP

By:   
\_\_\_\_\_

Seth H. Ostrow (SO 9605)

Jeffrey P. Weingart (JW 7145)

Frederick L. Whitmer (FW 8888)

Arianna Frankl (AF 7764)

Steven S. Rubin (SR 4709)

900 Third Avenue

New York, New York 10022

Telephone: (212) 895-2000

Facsimile: (212) 895-2900

Attorneys for Plaintiff Micromuse Inc.