

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CLOUDING IP, LLC,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

C.A. No. 12-640-LPS

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Clouding IP, LLC makes the following allegations against Defendant Microsoft Corporation:

PARTIES

1. Plaintiff Clouding IP, LLC (“Clouding”) is a Delaware limited liability company having a principal place of business at 2 Terrace Way, Suite C, Greensboro, North Carolina 27403.

2. On information and belief, Defendant Microsoft Corporation (“Microsoft”) is a Washington corporation with its principal place of business located at One Microsoft Way, Redmond, Washington 98052-6399. On information and belief, Microsoft may be served via its registered agent, PTSGE Corp., 925 Fourth Avenue, Suite 2900, Seattle, Washington 98104-1158.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Microsoft is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long Arm Statute, due to having availed itself of the rights and benefits of Delaware by conducting substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Delaware and in this Judicial District.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b). On information and belief, Microsoft has transacted business in this district and has committed and/or induced acts of patent infringement in this district.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,596,784

6. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-5 above, as if fully set forth herein.

7. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,596,784 ("the '784 patent") titled "Method System and Apparatus for Providing Pay-Per-Use Distributed Computing Resources." The '784 patent was duly and legally issued by the United States Patent and Trademark Office on September 29, 2009. Clouding is the owner by assignment from Symantec Corporation of the '784 patent. A true and correct copy of the '784 patent is included as Exhibit A.

8. Microsoft makes, uses, sells, and/or offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Microsoft's cloud computing products and/or services provide or support pay-per-use cloud computing.

9. On information and belief, Microsoft has directly infringed and continues to infringe the '784 patent by, among other things, making, using, offering for sale, and/or selling pay-per-use cloud computing products and/or services patented under the '784 patent. Such pay-per-use cloud computing products and/or services include, by way of example and without limitation, use of Windows Azure, which is covered by one or more claims of the '784 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling pay-per-use cloud computing products and/or services patented under the '784 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the '784 patent pursuant to 35 U.S.C. § 271(a).

10. Microsoft has had actual knowledge of the '784 patent since at least the filing of the original complaint in this action.

11. On information and belief, Microsoft has and continues to indirectly infringe one or more claims of the '784 patent by inducing others (e.g., its customers) to infringe in violation of 35 U.S.C. § 271(b).

12. On information and belief, Microsoft has induced others and continues to induce others, including but not limited to Microsoft's customers, to infringe the '784 patent in violation of 35 U.S.C. § 271(b) by taking active steps to encourage and facilitate direct infringement by others with knowledge of that infringement, such as, upon information and belief, by making, using, offering for sale, and/or selling pay-per-use cloud computing products and/or services that when used as intended infringe the '784 patent. Such products and/or services include, by way of example and without limitation, Windows Azure, the use of which is covered by one or more claims of the '784 patent, including but not limited to claim 19. Microsoft's customers who use

such products and/or services directly infringe the claims of the '784 patent. Since at least the filing of the original complaint in this action, Microsoft has had actual knowledge of the '784 patent and has known that the use of such products and/or services by its customers constituted direct infringement of the '784 patent. Despite Microsoft's actual knowledge of the '784 patent and the knowledge that its customers infringed, Microsoft continued to, and still continues to, actively encourage its customers to infringe by, *inter alia*, making, using, offering for sale, and/or selling pay-per-use cloud computing products and/or services. Microsoft further intends that its customer use such products and/or services in a manner that infringes the claims of the '784 patent.

13. Microsoft's actions of, *inter alia*, making, using, offering for sale, and/or selling pay-per-use cloud computing products and/or services constitute an objectively high likelihood of infringement of the '784 patent, which was duly issued by the United States Patent and Trademark Office and is presumed valid. Since at least the filing of the original complaint, Microsoft is aware that there is an objectively high likelihood that its actions constituted, and continue to constitute, infringement of the '784 patent and that the '784 patent is valid. Despite Microsoft's knowledge of that risk, on information and belief, Microsoft has not made any changes to the relevant operation of its products and/or services and has not provided its users and/or customers with instructions on how to avoid infringement the '784 patent. Instead, Microsoft has continued to, and still is continuing to, among other things, make, use, offer for sale, and/or sell pay-per-use cloud computing products and/or services patented under the '784 patent. As such, Microsoft willfully, wantonly and deliberately infringed and is infringing the '784 patent in disregard of Clouding's rights.

14. As a result of Microsoft's infringement of the '784 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 7,065,637

15. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-14 above, as if fully set forth herein.

16. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,065,637 ("the '637 patent") titled "System for Configuration of Dynamic Computing Environments Using a Visual Interface." The '637 patent was duly and legally issued by the United States Patent and Trademark Office on June 20, 2006. Clouding is the owner by assignment from Symantec Corporation of the '637 patent. A true and correct copy of the '637 patent is included as Exhibit B.

17. Microsoft makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Microsoft's cloud computing products and/or services provide or support use of a visual interface to configure cloud computing resources.

18. On information and belief, Microsoft has directly infringed and continues to infringe the '637 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services covered by one or more claims of the '637 patent. Such cloud computing products and/or services include, by way of example and without limitation, cloud computing products and/or services configurable through Windows Azure, which are covered by one or more claims of the '637 patent, including but not limited to claim 1.

By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the '637 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the '637 patent pursuant to 35 U.S.C. § 271(a).

19. Microsoft has had actual knowledge of the '637 patent since at least the filing of the original complaint in this action.

20. On information and belief, Microsoft has and continues to indirectly infringe one or more claims of the '637 patent by inducing others (e.g., its customers) to infringe in violation of 35 U.S.C. § 271(b).

21. On information and belief, Microsoft has induced others and continues to induce others, including but not limited to Microsoft's customers, to infringe the '637 patent in violation of 35 U.S.C. § 271(b) by taking active steps to encourage and facilitate direct infringement by others with knowledge of that infringement, such as, upon information and belief, by making, using, offering for sale, and/or selling cloud computing products and/or services that when used as intended infringe the '637 patent. Such products and/or services include, by way of example and without limitation, Windows Azure, the use of which are covered by one or more claims of the '637 patent, including but not limited to claim 1. Microsoft's customers who use such products and/or services directly infringe the claims of the '637 patent. Since at least the filing of the original complaint in this action, Microsoft has had actual knowledge of the '637 patent and has known that the use of such products and/or services by its customers constituted direct infringement of the '637 patent. Despite Microsoft's actual knowledge of the '637 patent and the knowledge that its customers infringed, Microsoft continued to, and still continues to, actively encourage its customers to infringe by, *inter alia*, making, using, offering for sale, and/or selling

cloud computing products and/or services. Microsoft further intends that its customer use such products and/or services in a manner that infringes the claims of the '637 patent.

22. Microsoft's actions of, *inter alia*, making, using, offering for sale, and/or selling cloud computing products and/or services constitute an objectively high likelihood of infringement of the '637 patent, which was duly issued by the United States Patent and Trademark Office and is presumed valid. Since at least the filing of the original complaint, Microsoft is aware that there is an objectively high likelihood that its actions constituted, and continue to constitute, infringement of the '637 patent and that the '637 patent is valid. Despite Microsoft's knowledge of that risk, on information and belief, Microsoft has not made any changes to the relevant operation of its products and/or services and has not provided its users and/or customers with instructions on how to avoid infringement the '637 patent. Instead, Microsoft has continued to, and still is continuing to, among other things, make, use, offer for sale and/or sell cloud computing products and/or services patented under the '637 patent. As such, Microsoft willfully, wantonly and deliberately infringed and is infringing the '637 patent in disregard of Clouding's rights.

23. As a result of Microsoft's infringement of the '637 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 6,738,799

24. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-23 above, as if fully set forth herein.

25. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,738,799 (“the ’799 patent”) titled “Methods and Apparatuses for File Synchronization and Updating Using a Signature List.” The ’799 patent was duly and legally issued by the United States Patent and Trademark Office on May 18, 2004. Clouding is the owner by assignment from Symantec Corporation of the ’799 patent. A true and correct copy of the ’799 patent is included as Exhibit C.

26. Microsoft makes, uses, sells, offers for sale, and/or imports into the United States products and/or services that provide or support synchronization of files. On information and belief, at least some of such products and/or services perform synchronization of files between networked computers by providing updates.

27. On information and belief, Microsoft has directly infringed and continues to infringe the ’799 patent by, among other things, making, using, offering for sale, selling and/or importing products and/or services into the United States that are covered by one or more claims of the ’799 patent. Such products and/or services include, by way of example and without limitation, Microsoft SharePoint 2010, the use of which is covered by one or more claims of the ’799 patent, including but not limited to claim 37. By making, using, offering for sale, selling and/or importing into the United States such products and/or service that are covered by one or more claims of the ’799 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the ’799 patent pursuant to 35 U.S.C. § 271(a).

28. Microsoft has had actual knowledge of the ’799 patent since at least the filing of the original complaint in this action.

29. On information and belief, Microsoft has and continues to indirectly infringe one or more claims of the '799 patent by inducing others (e.g., its customers) to infringe in violation of 35 U.S.C. § 271(b).

30. On information and belief, Microsoft has induced others and continues to induce others, including but not limited to Microsoft's customers, to infringe the '799 patent in violation of 35 U.S.C. § 271(b) by taking active steps to encourage and facilitate direct infringement by others with knowledge of that infringement, such as, upon information and belief, by making, using, offering for sale, selling and/or importing products and/or services that when used as intended infringe the '799 patent. Such products and/or services include, by way of example and without limitation, Microsoft SharePoint 2010, the use of which are covered by one or more claims of the '799 patent, including but not limited to claim 42. Microsoft's customers who use such products and/or services directly infringe the claims of the '799 patent. Since at least the filing of the original complaint in this action, Microsoft has had actual knowledge of the '799 patent and has known that the use of such products and/or services by its customers constituted direct infringement of the '799 patent. Despite Microsoft's actual knowledge of the '799 patent and the knowledge that its customers infringed, Microsoft continued to, and still continues to, actively encourage its customers to infringe by, *inter alia*, making, using, offering for sale, selling and/or importing products and/or services. Microsoft further intends that its customer use such products and/or services in a manner that infringes the claims of the '799 patent.

31. Microsoft's actions of, *inter alia*, making, using, offering for sale, selling and/or importing products and/or services constitute an objectively high likelihood of infringement of the '799 patent, which was duly issued by the United States Patent and Trademark Office and is presumed valid. Since at least the filing of the original complaint, Microsoft is aware that there

is an objectively high likelihood that its actions constituted, and continue to constitute, infringement of the '799 patent and that the '799 patent is valid. Despite Microsoft's knowledge of that risk, on information and belief, Microsoft has not made any changes to the relevant operation of its products and/or services and has not provided its users and/or customers with instructions on how to avoid infringement the '799 patent. Instead, Microsoft has continued to, and still is continuing to, among other things, make, use, offer for sale, sell and/or import products and/or services patented under the '799 patent. As such, Microsoft willfully, wantonly and deliberately infringed and is infringing the '799 patent in disregard of Clouding's rights.

32. As a result of Microsoft's infringement of the '799 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT IV
INFRINGEMENT OF U.S. PATENT NO. 5,944,839

33. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-32 above, as if fully set forth herein.

34. Plaintiff Clouding is the owner by assignment of United States Patent No. 5,944,839 ("the '839 patent") titled "System and Method for Automatically Maintaining A Computer System." The '839 patent was duly and legally issued by the United States Patent and Trademark Office on August 31, 1999. Clouding is the owner by assignment from Symantec Corporation of the '839 patent. A true and correct copy of the '839 patent is included as Exhibit D.

35. Microsoft makes, uses, sells, offers for sale, and/or imports in the United States products and/or services for cloud computing. On information and belief, at least some of

Microsoft's products and/or services provide or support automatic detection, diagnosis, and isolation of system and software faults.

36. On information and belief, Microsoft has directly infringed and continues to infringe the '839 patent by, among other things, making, importing, using, offering for sale, and/or selling products and/or services covered by one or more claims of the '839 patent. Such products and/or services include, by way of example and without limitation, Microsoft Windows 7, the use of which is covered by one or more claims of the '839 patent, including but not limited to claim 6. By making, using, offering for sale, and/or selling such products and/or services covered by one or more claims of the '839 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the '839 patent pursuant to 35 U.S.C. § 271(a).

37. Microsoft has had actual knowledge of the '839 patent since at least the filing of the original complaint in this action.

38. On information and belief, Microsoft has and continues to indirectly infringe one or more claims of the '839 patent by inducing others (e.g., its customers) to infringe in violation of 35 U.S.C. § 271(b).

39. On information and belief, Microsoft has induced others and continues to induce others, including but not limited to Microsoft's customers, to infringe the '839 patent in violation of 35 U.S.C. § 271(b) by taking active steps to encourage and facilitate direct infringement by others with knowledge of that infringement, such as, upon information and belief, by making, importing, using, offering for sale, and/or selling products and/or services that when used as intended infringe the '839 patent. Such products and/or services include, by way of example and without limitation, Microsoft Windows 7, the use of which are covered by one or more claims of

the '839 patent, including but not limited to claim 15. Microsoft's customers who use such products and/or services directly infringe the claims of the '839 patent. Since at least the filing of the original complaint in this action, Microsoft has had actual knowledge of the '839 patent and has known that the use of such products and/or services by its customers constituted direct infringement of the '839 patent. Despite Microsoft's actual knowledge of the '839 patent and the knowledge that its customers infringed, Microsoft continued to, and still continues to, actively encourage its customers to infringe by, *inter alia*, making, importing, using, offering for sale, and/or selling products and/or services. Microsoft further intends that its customer use such products and/or services in a manner that infringes the claims of the '839 patent.

40. Microsoft's actions of, *inter alia*, making, importing, using, offering for sale, and/or selling products and/or services constitute an objectively high likelihood of infringement of the '839 patent, which was duly issued by the United States Patent and Trademark Office and is presumed valid. Since at least the filing of the original complaint, Microsoft is aware that there is an objectively high likelihood that its actions constituted, and continue to constitute, infringement of the '839 patent and that the '839 patent is valid. Despite Microsoft's knowledge of that risk, on information and belief, Microsoft has not made any changes to the relevant operation of its products and/or services and has not provided its users and/or customers with instructions on how to avoid infringement the '839 patent. Instead, Microsoft has continued to, and still is continuing to, among other things, make, import, use, offer for sale and/or sell products and/or services patented under the '839 patent. As such, Microsoft willfully, wantonly and deliberately infringed and is infringing the '839 patent in disregard of Clouding's rights.

41. As a result of Microsoft's infringement of the '839 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement,

but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT V
INFRINGEMENT OF U.S. PATENT NO. 5,825,891

42. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-41 above, as if fully set forth herein.

43. Plaintiff Clouding is the owner by assignment of United States Patent No. 5,825,891 (“the ’891 patent”) titled “Key Management for Network Communication.” The ’891 patent was duly and legally issued by the United States Patent and Trademark Office on October 20, 1998. Clouding is the owner by assignment from Symantec Corporation of the ’891 patent. A true and correct copy of the ’891 patent is included as Exhibit E.

44. Microsoft makes, uses, sells and/or offers for sale in the United States products and/or services that provide for or support establishing Internet Protocol Security/Internet Key Exchange-based Virtual Private Network tunnels.

45. On information and belief, Microsoft has directly infringed and continues to infringe the ’891 patent by, among other things, using methods covered by one or more claims of the ’891 patent. Such methods include, by way of example and without limitation, use of Windows Server 2003, which is covered by one or more claims of the ’891 patent, including but not limited to claim 1. By using such methods covered by one or more claims of the ’891 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the ’891 patent pursuant to 35 U.S.C. § 271(a).

46. Microsoft has had actual knowledge of the ’891 patent since at least the filing of the original complaint in this action.

47. On information and belief, Microsoft has and continues to indirectly infringe one or more claims of the '891 patent by inducing others (e.g., its customers) to infringe in violation of 35 U.S.C. § 271(b).

48. On information and belief, Microsoft has induced others and continues to induce others, including but not limited to Microsoft's customers, to infringe the '891 patent in violation of 35 U.S.C. § 271(b) by taking active steps to encourage and facilitate direct infringement by others with knowledge of that infringement, such as, upon information and belief, by using methods that when used as intended infringe the '891 patent. Such methods include, by way of example and without limitation, Windows Server 2003, the use of which are covered by one or more claims of the '891 patent, including but not limited to claim 1. Microsoft's customers who use such methods directly infringe the claims of the '891 patent. Since at least the filing of the original complaint in this action, Microsoft has had actual knowledge of the '891 patent and has known that the use of such methods by its customers constituted direct infringement of the '891 patent. Despite Microsoft's actual knowledge of the '891 patent and the knowledge that its customers infringed, Microsoft continued to, and still continues to, actively encourage its customers to infringe by, *inter alia*, using methods covered by one or more claims of the '891 patent. Microsoft further intends that its customer use such methods in a manner that infringes the claims of the '891 patent.

49. Microsoft's actions of, *inter alia*, using methods constitute an objectively high likelihood of infringement of the '891 patent, which was duly issued by the United States Patent and Trademark Office and is presumed valid. Since at least the filing of the original complaint, Microsoft is aware that there is an objectively high likelihood that its actions constituted, and continue to constitute, infringement of the '891 patent and that the '891 patent is valid. Despite

Microsoft's knowledge of that risk, on information and belief, Microsoft has not made any changes to the relevant operation of its using methods and has not provided its users and/or customers with instructions on how to avoid infringement the '891 patent. Instead, Microsoft has continued to, and still is continuing to, among other things, use methods patented under the '891 patent. As such, Microsoft willfully, wantonly and deliberately infringed and is infringing the '891 patent in disregard of Clouding's rights.

50. As a result of Microsoft's infringement of the '891 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT VI
INFRINGEMENT OF U.S. PATENT NO. 5,495,607

51. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-50 above, as if fully set forth herein.

52. Plaintiff Clouding is the owner by assignment of United States Patent No. 5,495,607 ("the '607 patent") titled "Network Management System Having Virtual Catalog Overview of Files Disruptively Stored Across Network Domain." The '607 patent was duly and legally issued by the United States Patent and Trademark Office on February 27, 1996. Clouding is the owner by assignment from Symantec Corporation of the '607 patent. A true and correct copy of the '607 patent is included as Exhibit F.

53. Microsoft operates one or more server farms (comprising, *inter alia*, servers and computers on a network) that are located in data centers in the United States. Microsoft's server farms provide and support cloud computing services, including at least Windows Azure. On

information and belief, Microsoft makes and/or uses a system for monitoring the health of at least some of Microsoft's servers and computers over a network in its data centers.

54. On information and belief, Microsoft has directly infringed and continues to infringe the '607 patent by, among other things, making, using, offering for sale, and/or selling systems, and products and/or services related thereto, covered by one or more claims of the '607 patent. Such systems include, by way of example and without limitation, a system made and/or used by Microsoft to monitor the health of servers and computers running Windows Azure, which is covered by one or more claims of the '607 patent, including but not limited to claim 9. By making, using, offering for sale, and/or selling such systems, and products and/or services related thereto, covered by one or more claims of the '607 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the '607 patent pursuant to 35 U.S.C. § 271(a).

55. Microsoft has had actual knowledge of the '607 patent since at least the filing of the original complaint in this action.

56. Microsoft's actions of, *inter alia*, making, using, offering for sale, and/or selling systems, and products and/or services related thereto constitute an objectively high likelihood of infringement of the '607 patent, which was duly issued by the United States Patent and Trademark Office and is presumed valid. Since at least the filing of the original complaint, Microsoft is aware that there is an objectively high likelihood that its actions constituted, and continue to constitute, infringement of the '607 patent and that the '607 patent is valid. Despite Microsoft's knowledge of that risk, on information and belief, Microsoft has not made any changes to the relevant operation of its products to avoid infringement the '607 patent. Instead,

Microsoft has continued to, and still is continuing to, among other things, make, use, offer for sale and/or sell products and/or services patented under the '607 patent. As such, Microsoft willfully, wantonly and deliberately infringed and is infringing the '607 patent in disregard of Clouding's rights.

57. As a result of Microsoft's infringement of the '607 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT VII
INFRINGEMENT OF U.S. PATENT NO. 6,925,481

58. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-57 above, as if fully set forth herein.

59. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,925,481 ("the '481 patent") titled "Technique for Enabling Remote Data Access and Manipulation from a Pervasive Device." The '481 patent was duly and legally issued by the United States Patent and Trademark Office on August 2, 2005. Clouding is the owner by assignment from Symantec Corporation of the '481 patent. A true and correct copy of the '481 patent is included as Exhibit G.

60. Microsoft makes, uses, sells, offers for sale, and/or imports products and/or services in the United States that provide or support remote data access by a mobile device, such as Windows Marketplace, App Connect, and Microsoft SharePoint.

61. On information and belief, Microsoft has directly infringed and continues to infringe the '481 patent by, among other things, making, using, offering for sale, selling and/or

importing products and/or services that are covered by one or more claims of the '481 patent. Such products and/or services include, by way of example and without limitation, Windows Marketplace, App Connect, and Microsoft SharePoint, which are covered by one or more claims of the '481 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and/or services covered by one or more claims of the '481 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the '481 patent pursuant to 35 U.S.C. § 271(a).

62. Microsoft has had actual knowledge of the '481 patent since at least the filing of the original complaint in this action.

63. On information and belief, Microsoft has and continues to indirectly infringe one or more claims of the '481 patent by inducing others (e.g., its customers) to infringe in violation of 35 U.S.C. § 271(b).

64. On information and belief, Microsoft has induced others and continues to induce others, including but not limited to Microsoft's customers, to infringe the '481 patent in violation of 35 U.S.C. § 271(b) by taking active steps to encourage and facilitate direct infringement by others with knowledge of that infringement, such as, upon information and belief, by making, using, offering for sale, selling and/or importing products and/or services that when used as intended infringe the '481 patent. Such products and/or services include, by way of example and without limitation, Windows Marketplace, App Connect, and Microsoft SharePoint, the use of which are covered by one or more claims of the '481 patent, including but not limited to claim 55. Microsoft's customers who use such products and/or services directly infringe the claims of the '481 patent. Since at least the filing of the original complaint in this action, Microsoft has

had actual knowledge of the '481 patent and has known that the use of such products and/or services by its customers constituted direct infringement of the '481 patent. Despite Microsoft's actual knowledge of the '481 patent and the knowledge that its customers infringed, Microsoft continued to, and still continues to, actively encourage its customers to infringe by, *inter alia*, making, using, offering for sale, selling and/or importing products and/or services. Microsoft further intends that its customer use such products and/or services in a manner that infringes the claims of the '481 patent.

65. Microsoft's actions of, *inter alia*, making, using, offering for sale, selling and/or importing products and/or services constitute an objectively high likelihood of infringement of the '481 patent, which was duly issued by the United States Patent and Trademark Office and is presumed valid. Since at least the filing of the original complaint, Microsoft is aware that there is an objectively high likelihood that its actions constituted, and continue to constitute, infringement of the '481 patent and that the '481 patent is valid. Despite Microsoft's knowledge of that risk, on information and belief, Microsoft has not made any changes to the relevant operation of its products and/or services and has not provided its users and/or customers with instructions on how to avoid infringement the '481 patent. Instead, Microsoft has continued to, and still is continuing to, among other things, make, use, offer for sale, sell and/or import products and/or services patented under the '481 patent. As such, Microsoft willfully, wantonly and deliberately infringed and is infringing the '481 patent in disregard of Clouding's rights.

66. As a result of Microsoft's infringement of the '481 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT VIII
INFRINGEMENT OF U.S. PATENT NO. 7,254,621

67. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-66 above, as if fully set forth herein.

68. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,254,621 (“the ’621 patent”) titled “Technique for Enabling Remote Data Access and Manipulation from a Pervasive Device.” The ’621 patent was duly and legally issued by the United States Patent and Trademark Office on August 7, 2007. Clouding is the owner by assignment from Symantec Corporation of the ’621 patent. A true and correct copy of the ’621 patent is included as Exhibit H.

69. Microsoft makes, uses, sells, offers for sale, and/or imports products and/or services in the United States that provide or support remote data access by a mobile device, such as Windows Marketplace, App Connect, and Microsoft SharePoint.

70. On information and belief, Microsoft has directly infringed and continues to infringe the ’621 patent by, among other things, making, using, offering for sale, selling and/or importing products and/or services that are covered by one or more claims of the ’621 patent. Such products and/or services include, by way of example and without limitation, Windows Marketplace, App Connect, and Microsoft SharePoint, which are covered by one or more claims of the ’621 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and/or services covered by one or more claims of the ’621 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the ’621 patent pursuant to 35 U.S.C. § 271(a).

71. Microsoft has had actual knowledge of the '621 patent since at least the filing of the original complaint in this action.

72. Microsoft's actions of, *inter alia*, making, using, offering for sale, selling and/or importing such products and/or services constitute an objectively high likelihood of infringement of the '621 patent, which was duly issued by the United States Patent and Trademark Office and is presumed valid. Since at least the filing of the original complaint, Microsoft is aware that there is an objectively high likelihood that its actions constituted, and continue to constitute, infringement of the '621 patent and that the '621 patent is valid. Despite Microsoft's knowledge of that risk, on information and belief, Microsoft has not made any changes to the relevant operation of its products and/or services to avoid infringement the '621 patent. Instead, Microsoft has continued to, and still is continuing to, among other things, make, use, offer for sale, sell and/or import products and/or services patented under the '621 patent. As such, Microsoft willfully, wantonly and deliberately infringed and is infringing the '621 patent in disregard of Clouding's rights.

73. As a result of Microsoft's infringement of the '621 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT IX
INFRINGEMENT OF U.S. PATENT NO. 6,631,449

74. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-73 above, as if fully set forth herein.

75. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,631,449 (“the ’449 patent”) titled “Dynamic Distributed Data System and Method.” The ’449 patent was duly and legally issued by the United States Patent and Trademark Office on October 7, 2003. Clouding is the owner by assignment from Symantec Corporation of the ’449 patent. A true and correct copy of the ’449 patent is included as Exhibit I.

76. Microsoft makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Microsoft’s cloud computing products and/or services, such as Microsoft Windows Azure Storage (WAS), are provided by servers using server-to-server communication.

77. On information and belief, Microsoft has directly infringed and continues to infringe the ’449 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services patented under the ’449 patent. Such cloud computing products and/or services include, by way of example and without limitation, use of Microsoft Windows Azure Storage (WAS), which is covered by one or more claims of the ’449 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling cloud computing products and/or services patented under the ’449 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the ’449 patent pursuant to 35 U.S.C. § 271(a).

78. As a result of Microsoft's infringement of the '449 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT X
INFRINGEMENT OF U.S. PATENT NO. 6,918,014

79. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-78 above, as if fully set forth herein.

80. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,918,014 ("the '014 patent") titled "Dynamic Distributed Data System and Method." The '014 patent was duly and legally issued by the United States Patent and Trademark Office on July 12, 2005. Clouding is the owner by assignment from Symantec Corporation of the '014 patent. A true and correct copy of the '014 patent is included as Exhibit J.

81. Microsoft makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Microsoft's cloud computing products and/or services, such as Microsoft Windows Azure Storage (WAS), are provided by servers using server-to-server communication.

82. On information and belief, Microsoft has directly infringed and continues to infringe the '014 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services patented under the '014 patent. Such cloud computing products and/or services include, by way of example and without limitation, use of Microsoft Windows Azure Storage (WAS), which is covered by one or more claims of the '014 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling cloud computing products and/or services patented under the '014 patent, Microsoft has injured

Clouding and is liable to Clouding for direct infringement of the '014 patent pursuant to 35 U.S.C. § 271(a).

83. As a result of Microsoft's infringement of the '014 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT XI
INFRINGEMENT OF U.S. PATENT NO. 7,032,089

84. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-83 above, as if fully set forth herein.

85. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,032,089 ("the '089 patent") titled "Replica Synchronization Using Copy-On-Read Technique." The '089 patent was duly and legally issued by the United States Patent and Trademark Office on April 18, 2006. Clouding is the owner by assignment from Symantec Corporation of the '089 patent. A true and correct copy of the '089 patent is included as Exhibit K.

86. Microsoft makes, uses, sells, offers for sale, and/or imports into the United States products and/or services that provide for data synchronization. On information and belief, at least some of data synchronization products and/or services provide synchronization using copy-on-read techniques.

87. On information and belief, Microsoft has directly infringed and continues to infringe the '089 patent by, among other things, making, using, offering for sale, selling and/or importing into the United States products and/or services that are covered by one or more claims

of the '089 patent. Such products and/or services include, by way of example and without limitation, the Microsoft SkyDrive and products and/or services related thereto, which are covered by one or more claims of the '089 patent, including but not limited to claim 13. By making, using, offering for sale, selling and/or importing into the United States such products and/or services that are covered by one or more claims of the '089 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the '089 patent pursuant to 35 U.S.C. § 271(a).

88. As a result of Microsoft's infringement of the '089 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT XII
INFRINGEMENT OF U.S. PATENT NO. 6,963,908

89. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-88 above, as if fully set forth herein.

90. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,963,908 ("the '908 patent") titled "System for Transferring Customized Hardware and Software Settings from One Computer to Another Computer to Provide Personalized Operating Environments." The '908 patent was duly and legally issued by the United States Patent and Trademark Office on November 8, 2005. Clouding is the owner by assignment from Symantec Corporation of the '908 patent. A true and correct copy of the '908 patent is included as Exhibit L.

91. Microsoft makes, uses, sells, offers for sale, and/or imports products and/or services in the United States that provide or support remote data access by a mobile device, such as Microsoft Cloud Drive.

92. On information and belief, Microsoft has directly infringed and continues to infringe the '908 patent by, among other things, making, using, offering for sale, selling and/or importing products and/or services that are covered by one or more claims of the '908 patent. Such products and/or services include, by way of example and without limitation, Microsoft SkyDrive, the use of which is covered by one or more claims of the '908 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and/or services covered by one or more claims of the '908 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the '908 patent pursuant to 35 U.S.C. § 271(a).

93. As a result of Microsoft's infringement of the '908 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT XIII
INFRINGEMENT OF U.S. PATENT NO. 6,662,310

94. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-93 above, as if fully set forth herein.

95. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,662,310 ("the '310 patent") titled "Methods for Automatically Locating URL-Containing or Other Data-Containing Windows in Frozen Browser or Other Application Program, Saving Contents, and Relaunching Application Program with Link to Saved Data." The '310 patent was duly and legally issued by the United States Patent and Trademark Office on December 9, 2003.

Clouding is the owner by assignment from Symantec Corporation of the '310 patent. A true and correct copy of the '310 patent is included as Exhibit M.

96. Microsoft makes, uses, sells, and offers for sale in the United States products and/or services for computing. On information and belief, at least some of Microsoft's computing products and/or services provide or support application recovery and restart.

97. On information and belief, Microsoft has directly infringed and continues to infringe the '310 patent by, among other things, making, using, offering for sale, and/or selling computing products and/or services covered by one or more claims of the '310 patent. Such computing products and/or services include, by way of example and without limitation, Microsoft Windows Vista and Windows 7, which is covered by one or more claims of the '310 patent, including but not limited to claim 5. By making, using, offering for sale, and/or selling such computing products and services covered by one or more claims of the '310 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the '310 patent pursuant to 35 U.S.C. § 271(a).

98. As a result of Microsoft's infringement of the '310 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT XIV
INFRINGEMENT OF U.S. PATENT NO. 7,272,708

99. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-98 above, as if fully set forth herein.

100. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,272,708 (“the ’708 patent”) titled “System for Configuration of Dynamic Computing Environments Using a Visual Interface.” The ’708 patent was duly and legally issued by the United States Patent and Trademark Office on September 18, 2007. Clouding is the owner by assignment from Symantec Corporation of the ’708 patent. A true and correct copy of the ’708 patent is included as Exhibit N.

101. Microsoft makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Microsoft’s cloud computing products and/or services provide or support use of a visual interface to configure cloud computing resources.

102. On information and belief, Microsoft has directly infringed and continues to infringe the ’708 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services covered by one or more claims of the ’708 patent. Such cloud computing products and/or services include, by way of example and without limitation, cloud computing products and/or services configurable through Windows Azure, which are covered by one or more claims of the ’708 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the ’708 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the ’708 patent pursuant to 35 U.S.C. § 271(a).

103. As a result of Microsoft’s infringement of the ’708 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

COUNT XV
INFRINGEMENT OF U.S. PATENT NO. 7,836,292

104. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-103 above, as if fully set forth herein.

105. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,836,292 (“the ’292 patent”) titled “System for Configuration of Dynamic Computing Environments Using a Visual Interface.” The ’292 patent was duly and legally issued by the United States Patent and Trademark Office on September 18, 2007. Clouding is the owner by assignment from Symantec Corporation of the ’292 patent. A true and correct copy of the ’292 patent is included as Exhibit O.

106. Microsoft makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Microsoft’s cloud computing products and/or services provide or support use of a visual interface to configure cloud computing resources.

107. On information and belief, Microsoft has directly infringed and continues to infringe the ’292 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services covered by one or more claims of the ’292 patent. Such cloud computing products and/or services include, by way of example and without limitation, cloud computing products and/or services configurable through Windows Azure, which are covered by one or more claims of the ’292 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the ’292 patent, Microsoft has injured Clouding and is liable to Clouding for direct infringement of the ’292 patent pursuant to 35 U.S.C. § 271(a).

108. As a result of Microsoft's infringement of the '292 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Microsoft's infringement, but in no event less than a reasonable royalty for the use made of the invention by Microsoft, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Clouding respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that Microsoft has infringed, either literally and/or under the doctrine of equivalents, the '784 patent, the '637 patent, the '799 patent, the '839 patent, the '891 patent, '607 patent, the '481 patent, the '621 patent, the '449 patent, the '014 patent, the '089 patent, the '908 patent, the '310 patent, the '708 patent, and the '292 patent;
2. A judgment that Microsoft has induced infringement of the '784 patent, the '637 patent, the '799 patent, the '839 patent, the '891 patent, and the '481 patent;
3. A judgment that Microsoft willfully infringed the '784 patent, the '637 patent, the '799 patent, the '839 patent, the '891 patent, the '607 patent; the '481 patent, and the '621 patent;
4. A judgment and order for treble damages pursuant to 35 U.S.C. § 284;
5. A judgment and order requiring Microsoft to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest as provided under 35 U.S.C. § 284 for Microsoft's infringement of the '784 patent, the '637 patent, the '799 patent, the '839 patent, the '891 patent, the '607 patent; the '481 patent, the '621 patent, the '449 patent, the '014 patent, the '089 patent, the '908 patent, the '310 patent, the '708 patent, and the '292 patent;
6. A judgment and order that this case is exceptional and requiring Microsoft to pay Plaintiff Clouding reasonable experts' fees and attorneys' fees pursuant to 35 U.S.C. § 285; and

7. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Date: September 8, 2012

BAYARD, P.A.

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