

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2009 MAR 16 P 2: 25

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

TOMTOM GLOBAL ASSETS B.V.,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 2:09CV118
RAJ/JEB

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff TomTom Global Assets B.V. alleges as follows:

PARTIES

1. Plaintiff TomTom Global Assets B.V. ("TomTom") is a corporation incorporated under the laws of the Netherlands. TomTom's corporate headquarters are located at Rembrandtplein 35, 1017 CT Amsterdam, The Netherlands. TomTom is a wholly owned subsidiary of TomTom NV, a corporation incorporated under the laws of The Netherlands. TomTom NV distributes and sells navigation products and licenses navigation software throughout the United States through certain wholly owned subsidiaries, including TomTom, Inc.

2. Upon information and belief, Defendant Microsoft Corporation ("Microsoft") is a corporation incorporated under the laws of the State of Washington. Microsoft's principal place of business is at One Microsoft Way, Redmond, Washington 98052. Upon information and belief, Microsoft also maintains an office within this district, at 12012 Sunset Hills Rd., Reston, VA 20190. Microsoft develops, markets, distributes, and licenses computer software and

products related thereto.

3. Defendant Microsoft has made, used, offered to sell, or sold and continues to make, use, offer to sell, or sell within the United States and within this judicial district and division software products and products related thereto, including, but not limited to, its Microsoft Streets and Trips product, that directly or indirectly infringe TomTom's U.S. Patent Nos. 5,902,350 ("the '350 patent"), 5,938,720 ("the '720 patent"), 6,660,994 B1 ("the '994 patent") and 6,542,814 ("the '814 patent"). Upon information and belief, Defendant Microsoft has imported and continues to import into the United States products that directly or indirectly infringe the '350, '720, '994, and the '814 patents.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. On information and belief, this Court has specific and general personal jurisdiction over Defendant Microsoft consistent with the principles of due process and/or the Virginia Long Arm Statute, because Microsoft has made, used, offered to sell, sold, or imported and continues to make, use, offer to sell, sell, or import infringing products in this judicial district and has committed and/or contributed to or induced acts of patent infringement in this district and division, and maintains offices within this judicial district and division.

7. Venue is proper in this judicial district and in this division under 28 U.S.C. §§ 1391 and 1400(b).

COUNT ONE: INFRINGEMENT OF U.S. PATENT NO. 5,902,350

8. The '350 patent, entitled "Generating a Maneuver at the Intersection Through a

Turn Lane” and listing Haruhisa Tamai and Simon Desai as inventors, duly and legally issued on May 11, 1999. A copy of the '350 patent is attached as Exhibit A.

9. TomTom is the sole assignee of the '350 patent and possesses all rights to sue and recover for past, present and future infringements of the '350 patent.

10. Upon information and belief, Defendant Microsoft has infringed and continues to infringe the '350 patent in violation of 35 U.S.C. § 271(a) by making, using, offering to sell, or selling products, including the Microsoft Streets and Trips product, that are covered by the '350 patent within the United States.

11. Upon information and belief, Defendant Microsoft has infringed and continues to infringe the '350 patent in violation of 35 U.S.C. § 271(b) by inducing others to use its products, including the Microsoft Streets and Trips product, in a manner that directly infringes the '350 patent in the United States.

12. Upon information and belief, Defendant Microsoft has contributorily infringed and continues to contributorily infringe the '350 patent in violation of 35 U.S.C. § 271(c) by offering to sell or selling within the United States or importing into the United States products, including the Microsoft Streets and Trips product, with the knowledge that these products are especially made or especially adapted for use in an infringement of the '350 patent. The infringing products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and their use constitutes a material part of the patented process.

13. Microsoft has received notice of the '350 patent and has continued its infringing activity in spite of such notice.

14. The infringement of the '350 patent by Defendant Microsoft has been and continues to be willful and without license from TomTom.

15. TomTom has suffered and continues to suffer damages and irreparable injury as a result of Defendant's infringement of the '350 patent.

COUNT TWO: INFRINGEMENT OF U.S. PATENT NO. 5,938,720

16. The '720 patent, entitled "Route Generation in a Vehicle Navigation System" and listing Haruhisa Tamai as its inventor, duly and legally issued on August 17, 1999. A copy of the '350 patent is attached as Exhibit B.

17. TomTom is the sole assignee of the '720 patent and possesses all rights to sue and recover for past, present and future infringements of the '720 patent.

18. Upon information and belief, Defendant Microsoft has infringed and continues to infringe the '720 patent in violation of 35 U.S.C. § 271(a) by making, using, offering to sell, or selling products, including the Microsoft Streets and Trips product, that are covered by the '720 patent within the United States.

19. Upon information and belief, Defendant Microsoft has infringed and continues to infringe the '720 patent in violation of 35 U.S.C. § 271(b) by inducing others to use its products, including the Microsoft Streets and Trips product, in a manner that directly infringes the '720 patent in the United States.

20. Upon information and belief, Defendant Microsoft has contributorily infringed and continues to contributorily infringe the '720 patent in violation of 35 U.S.C. § 271(c) by offering to sell or selling within the United States or importing into the United States products, including the Microsoft Streets and Trips product, with the knowledge that these products are especially made or especially adapted for use in an infringement of the '720 patent. The infringing products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and their use constitutes a material part of the patented process or product.

21. Microsoft has received notice of the '720 patent and has continued its infringing activity in spite of such notice.

22. The infringement of the '720 patent by Defendant Microsoft has been and continues to be willful and without license from TomTom.

23. TomTom has suffered and continues to suffer damages and irreparable injury as a result of Defendant's infringement of the '720 patent.

COUNT THREE: INFRINGEMENT OF U.S. PATENT NO. 6,660,994

24. The '994 patent, entitled "Quick Selection of Destinations in an Automobile Navigation System" and listing Ari I. Polidi as its inventor, duly and legally issued on July 29, 2003. A copy of the '994 patent is attached as Exhibit C.

25. TomTom is the sole assignee of the '994 patent and possesses all rights to sue and recover for past, present and future infringements of the '994 patent.

26. Upon information and belief, Defendant Microsoft has infringed and continues to infringe the '994 patent in violation of 35 U.S.C. § 271(a) by making, using, offering to sell, or selling products, including the Microsoft Streets and Trips product, that are covered by the '994 patent within the United States.

27. Upon information and belief, Defendant Microsoft has infringed and continues to infringe the '994 patent in violation of 35 U.S.C. § 271(b) by inducing others to use its products, including the Microsoft Streets and Trips product, in a manner that directly infringes the '994 patent in the United States.

28. Upon information and belief, Defendant Microsoft has contributorily infringed and continue to contributorily infringe the '994 patent in violation of 35 U.S.C. § 271(c) by offering to sell or selling within the United States or importing into the United States products,

including the Microsoft Streets and Trips product, with the knowledge that these products are especially made or especially adapted for use in an infringement of the '994 patent. The infringing products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and their use constitutes a material part of the patented process or product.

29. Microsoft has received notice of the '994 patent and has continued its infringing activity in spite of such notice.

30. The infringement of the '994 patent by Defendant Microsoft has been and continues to be willful and without license from TomTom.

31. TomTom has suffered and continues to suffer damages and irreparable injury as a result of Defendant's infringement of the '994 patent.

COUNT FOUR: INFRINGEMENT OF U.S. PATENT NO. 6,542,814

32. The '814 patent, entitled "Methods and Apparatus for Dynamic Point of Interest Display" and listing Ari I. Polidi and Gunda Govind as inventors, duly and legally issued on April 1, 2003. A copy of the '814 patent is attached as Exhibit D

33. TomTom is the sole assignee of the '814 patent and possesses all rights to sue and recover for past, present and future infringements of the '814 patent.

34. Upon information and belief, Defendant Microsoft has infringed and continues to infringe the '814 patent in violation of 35 U.S.C. § 271(a) by making, using, offering to sell, or selling products, including the Microsoft Streets and Trips product, that are covered by the '814 patent within the United States.

35. Upon information and belief, Defendant Microsoft has infringed and continues to infringe the '814 patent in violation of 35 U.S.C. § 271(b) by inducing others to use its products, including the Microsoft Streets and Trips product, in a manner that directly infringes the '814

patent in the United States.

36. Upon information and belief, Defendant Microsoft has contributorily infringed and continue to contributorily infringe the '814 patent in violation of 35 U.S.C. § 271(c) by offering to sell or selling within the United States or importing into the United States products, including the Microsoft Streets and Trips product, with the knowledge that these products are especially made or especially adapted for use in an infringement of the '814 patent. The infringing products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and their use constitutes a material part of the patented process or product.

37. Microsoft has received notice of the '814 patent and has continued its infringing activity in spite of such notice.

38. The infringement of the '814 patent by Defendant Microsoft has been and continues to be willful and without license from TomTom.

39. TomTom has suffered and continues to suffer damages and irreparable injury as a result of Defendant's infringement of the '814 patent.

REQUEST FOR RELIEF

TomTom requests that judgment be entered against Microsoft as follows:

(a) preliminarily and permanently enjoining Microsoft and its subsidiaries, officers, directors, employees, agents, attorneys, and all persons in privity or concert with it from continuing to infringe the '350, '720, '994 and '814 patents;

(b) awarding damages, costs, and prejudgment interest to TomTom under 35 U.S.C. § 284;

(c) awarding TomTom trebled damages for willful infringement under 35 U.S.C. § 284;

(d) declaring this case to be exceptional and awarding TomTom its reasonable costs and attorney fees under 35 U.S.C. § 285; and

(e) awarding TomTom such other relief as this Court deems just and proper.

JURY TRIAL DEMAND

TomTom respectfully demands a jury trial on all issues triable by right before a jury.

Dated: March 16, 2009

Respectfully submitted,

By:  _____

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