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AT SEATTLE
CLERK U.S. DISTRICT COURT
NESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MICROSOFT CORPORATION, a Washington corporation,

٧.

Plaintiff.

CARLOS P. SANDOVAL, d/b/a "Minervas" and JOHN DOES 1-10,

Defendants.

No.C 08-173970

COMPLAINT FOR WILLFUL COPYRIGHT INFRINGEMENT, WILLFUL TRADEMARK INFRINGEMENT, FALSE DESIGNATION OF ORIGIN, CONSTRUCTIVE TRUST, AND ACCOUNTING

Plaintiff Microsoft Corporation ("Microsoft") hereby alleges as follows:

INTRODUCTION

1. This is an action by Microsoft to recover damages arising from infringement of Microsoft's copyrights and trademarks by defendants, and to enjoin defendants' future infringements. Defendants are actively engaged in trafficking counterfeit copies of Microsoft software. In addition to damages and injunctive relief, Microsoft seeks an accounting, the imposition of a constructive trust upon defendants' illegal profits, and other injunctive relief.

COMPLAINT FOR DAMAGES AND EQUITABLE RELIEF - 1

K&L GATES LLP 925 FOURTH AVENUE SUITE 2900 SEATTLE, WASHINGTON 98104-1158 TELEPHONE: (206) 623-7580 FACSIMILE: (206) 623-7022

THE PARTIES

- 2. Plaintiff Microsoft is a Washington corporation with its principal place of business in Redmond, Washington. Microsoft develops, markets, distributes, and licenses computer software.
- 3. Defendant Carlos Sandoval is a citizen of California. Defendant Sandoval distributes computer software on the Internet using, among other methods, the auction site eBay (www.ebay.com). On this auction site and in his sales, defendant uses fictitious business names or aliases including "minervasfurn."
- 4. Microsoft is unaware of the true names and capacities of defendants sued herein as John Does 1 10 and therefore sues these defendants by such fictitious names. Microsoft will amend this complaint to allege their true names and capacities when ascertained. Microsoft is informed and believes and therefore alleges that each of the fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and that Microsoft's injuries as herein alleged were proximately caused by such defendants.
- 5. The actions alleged herein to have been undertaken by Sandoval and John Does 1-10 (collectively "defendants") were undertaken by each defendant individually, were actions that each defendant caused to occur, were actions that each defendant authorized, controlled, directed, or had the ability to authorize, control or direct, and/or were actions in which each defendant assisted, participated or otherwise encouraged, and are actions for which each defendant is liable. Each defendant aided and abetted the actions of the defendants set forth below, in that each defendant had knowledge of those actions, provided assistance and benefited from those actions, in whole or in part. Each of the defendants was the agent of each of the remaining defendants, and in doing the things hereinafter alleged, was

acting within the course and scope of such agency and with the permission and consent of other defendants.

JURISDICTION AND VENUE

- 6. This Court has personal jurisdiction over the defendants, who are primary participants in tortious acts in, and directed to, Washington, and have purposely availed themselves of the opportunity to conduct commercial activities in this forum.
- 7. This Court has subject matter jurisdiction over Microsoft's claims for trademark infringement, copyright infringement, and related claims pursuant to 15 U.S.C. § 1121, 17 U.S.C. § 501, and 28 U.S.C. §§ 1331 and 1338(a).
- 8. Venue is proper in the Western District of Washington pursuant to 28 U.S.C. § 1391(b), because a substantial part of the events giving rise to Microsoft's claims occurred in this District.

FACTS COMMON TO ALL CLAIMS

- 9. Microsoft develops, advertises, markets, distributes, and licenses a number of computer software programs. Microsoft's software programs are recorded on CD-ROMs, and they are packaged and distributed together with associated proprietary materials such as user guides, user manuals, end-user license agreements ("EULAs"), and other items.
- 10. <u>Microsoft's Products:</u> Microsoft has developed, advertised, marketed, distributed, and licensed the software packages known as Microsoft Office 2007 and Microsoft Office 2003 Professional:
- a. <u>Microsoft Office 2007</u>. Microsoft Office 2007 Ultimate ("Office 2007") is a suite of popular Microsoft software programs. Microsoft holds a valid copyright in Office 2007 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Registration Certificate for Office 2007, bearing number TX 6-504-552, is attached as

Exhibit 1 and is incorporated by reference. Office 2007 includes the following popular Microsoft software programs:

- i. <u>Microsoft Access 2007</u>, a program that allows users to create and manipulate databases and to store data. Microsoft holds a valid copyright in Microsoft Access 2007 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Office Access 2007, bearing number TX 6-524-395, is attached as **Exhibit 2** and is incorporated by reference.
- ii. <u>Microsoft Excel 2007</u>, a program that allows users to create and manipulate spreadsheets, perform calculations, and store numerical data. Microsoft holds a valid copyright in Microsoft Excel 2007 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Office Excel 2007, bearing number TX 6-524-399, is attached as **Exhibit 3** and is incorporated by reference.
- iii. <u>Microsoft Groove 2007</u>, a program that allows users to collaborate remotely to streamline business processes and content management. Microsoft holds a valid copyright in Microsoft Groove 2007 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Office Groove 2007, bearing number TX 6-524-390, is attached as **Exhibit 4** and is incorporated by reference.
- iv. <u>Microsoft InfoPath 2007</u>, a program that allows users to develop and deploy dynamic electronic forms. Microsoft holds a valid copyright in Microsoft InfoPath

¹ The copyright registration for the Enterprise and Professional versions of Microsoft Office 2007 are subsumed under the same Office 2007 registration number.

2007 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Office InfoPath 2007, bearing number TX 6-524-392, is attached as **Exhibit 5** and is incorporated by reference.

- v. <u>Microsoft OneNote 2007</u>, a program that allows users to create electronic notebooks to easily organize, search, and share notes. Microsoft holds a valid copyright in Microsoft OneNote 2007 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Office InfoPath 2007, bearing number TX 6-524-396, is attached as **Exhibit 6** and is incorporated by reference.
- vi. <u>Microsoft Outlook 2007</u>, a program that allows users and networked teams to create and manage calendars, tasks, contacts, and email communications. Microsoft holds a valid copyright in Microsoft Outlook 2007 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Office Outlook 2007, bearing number TX 6-524-393, is attached as **Exhibit 7** and is incorporated by reference.
- vii. Microsoft PowerPoint 2007, a program that allows users to create, organize, and present overhead and slide presentations. Microsoft holds a valid copyright in Microsoft PowerPoint 2007 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Office PowerPoint 2007, bearing number TX 6-524-389, is attached as **Exhibit 8** and is incorporated by reference.

viii. Microsoft Publisher 2007, a desktop publishing program that allows users to create, customize, and publish materials such as newsletters, brochures, flyers, catalogs, and Web sites. Microsoft holds a valid copyright in Microsoft Publisher 2007 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Office Publisher 2007, bearing number TX 6-524-388, is attached as **Exhibit 9** and is incorporated by reference.

- ix. Microsoft Word 2007, a program that allows users to create and edit reports and documents. Microsoft holds a valid copyright in Microsoft Word 2003 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Office Word 2007, bearing number TX 6-524-398, is attached as **Exhibit 10** and is incorporated by reference.
- b. <u>Microsoft Office 2003</u>. Microsoft has developed, advertised, marketed, distributed, and licensed a software package known as Microsoft Office 2003 Professional ("Office 2003"). Office 2003 is a suite of popular Microsoft software programs. Microsoft holds a valid copyright in Office 2003 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Registration Certificate for Office 2003, bearing number TX 5-837-617, is attached as **Exhibit 11** and is incorporated by reference. Office 2003 includes the following popular Microsoft software programs:
- i. <u>Microsoft Access 2003</u>, a program that allows users to create and manipulate databases and to store data. Microsoft holds a valid copyright in Microsoft Access 2003 (including user reference manuals, user guides, and screen displays) that was duly and

properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Access 2003, bearing number TX 5-901-713, is attached as **Exhibit 12** and is incorporated by reference.

- ii. <u>Microsoft Excel 2003</u>, a program that allows users to create and manipulate spreadsheets, perform calculations, and store numerical data. Microsoft holds a valid copyright in Microsoft Excel 2003 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Excel 2003, bearing number TX 5-837-636, is attached as **Exhibit 13** and is incorporated by reference.
- iii. Microsoft Outlook 2003, a program that allows users and networked teams to create and manage calendars, tasks, contacts, and email communications. Microsoft holds a valid copyright in Microsoft Outlook 2003 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Outlook 2003, bearing number TX 5-900-087, is attached as **Exhibit 14** and is incorporated by reference.
- iv. <u>Microsoft PowerPoint 2003</u>, a program that allows users to create, organize, and present overhead and slide presentations. Microsoft holds a valid copyright in Microsoft PowerPoint 2003 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft PowerPoint 2003, bearing number TX 5-852-649, is attached as **Exhibit 15** and is incorporated by reference.
 - v. Microsoft Word 2003, a program that allows users to create and edit

reports and documents. Microsoft holds a valid copyright in Microsoft Word 2003 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Word 2003, bearing number TX 5-900-088, is attached as **Exhibit 16** and is incorporated by reference.

- vi. <u>Microsoft Publisher 2003</u>, a desktop publishing program that allows users to create, customize, and publish materials such as newsletters, brochures, flyers, catalogs, and Web sites. Microsoft holds a valid copyright in Microsoft Publisher 2003 (including user reference manuals, user guides, and screen displays) that was duly and properly registered with the United States Copyright Office. A true and correct copy of the Copyright Registration Certificate for Microsoft Publisher 2003, bearing number TX 5-837-618, is attached as **Exhibit 17** and is incorporated by reference.
- 11. Microsoft has also duly and properly registered a number of trademarks and service marks in the United States Patent and Trademark Office on the Principal Register.

 Microsoft uses these marks to identify its products and services in the marketplace. Among the marks owned by Microsoft are the following registered marks (collectively the "Microsoft Marks"): ACCESS, EXCEL, GROOVE, INFOPATH, MICROSOFT, ONENOTE, OUTLOOK, and POWERPOINT.
- 12. Since at least November 1992, Microsoft has used, in commerce, the trademark "ACCESS" to promote to promote general-purpose computer database software.
- 13. On February 2, 2005, Microsoft applied for the registration of the ACCESS trademark. United States Trademark Registration No. 3,238,869 was issued on May 8, 2007. See Exhibit 18. The ACCESS trademark is broadly recognized as a brand identifier for general-purpose computer database software and related products.
 - 14. Since at least September 30, 1985, Microsoft has used, in commerce, the

EQUITABLE RELIEF - 8

trademark "EXCEL" to promote spreadsheet software and related products.

- 15. On April 12, 2004, Microsoft applied for the registration of the EXCEL trademark. United States Trademark Registration No. 2,942,050 was issued on April 19, 2005. See Exhibit 19. The EXCEL trademark and service mark is broadly recognized as a brand identifier for Microsoft's spreadsheet software and related products.
- 16. Since at least October 24, 2000, Microsoft has used, in commerce, the trademark "GROOVE" to promote content management software and related products.
- 17. On October 18, 2000, Microsoft applied for the registration of the GROOVE trademark. United States Trademark Registration No. 2,830,702 was issued on April 6, 2004. See Exhibit 20. The GROOVE trademark and service mark is broadly recognized as a brand identifier for Microsoft's content management software and related products.
- 18. Since at least February 19, 2003, Microsoft has used, in commerce, the trademark "INFOPATH" to promote electronic forms software.
- 19. On January 8, 2003, Microsoft applied for the registration of the INFOPATH trademark. United States Trademark Registration No. 2,890,260 was issued on September 28, 2004. See Exhibit 21. The INFOPATH trademark and service mark is broadly recognized as a brand identifier for Microsoft's forms software and related products.
- 20. Since at least November 12, 1975, Microsoft has used, in commerce, the trademark and service mark "MICROSOFT" to promote its products and services.
- 21. On October 22, 1979, Microsoft's predecessor applied for the registration of the MICROSOFT trademark and service mark. United States Trademark Registration No. 1,200,236 was issued on July 6, 1982. The MICROSOFT trademark and service mark is also the subject of United States Trademark Registration Nos. 1,966,382, 2,250,973, and 2,285,870. See Exhibit 22. Microsoft's MICROSOFT trademark and service mark is broadly recognized as identifying plaintiff Microsoft and its various products and services.

- 22. Since at least March 6, 2003, Microsoft has used, in commerce, the trademark "ONENOTE" to promote electronic notebook software and related products.
- 23. On November 6, 2002, Microsoft applied for the registration of the ONENOTE trademark. United States Trademark Registration No. 2,844,710 was issued on May 25, 2004. See Exhibit 23. The ONENOTE trademark and service mark is broadly recognized as a brand identifier for Microsoft's electronic notebook software and related products.
- 24. Since at least January 1, 1997, Microsoft has used, in commerce, the trademark "OUTLOOK" to promote computer software and electronic communications services.
- 25. On February 5, 1996, Microsoft applied for the registration of the OUTLOOK trademark. United States Trademark Registration No. 2,188,125 was issued on September 8, 1998. See Exhibit 24. The OUTLOOK trademark is broadly recognized as a brand identifier for Microsoft's computer software and electronic communications services.
- 26. Since at least April 20, 1987, Microsoft has used, in commerce, the trademark "POWERPOINT" to promote computer presentation software.
- 27. On June 29, 1987, Microsoft applied for the registration of the POWERPOINT trademark. United States Trademark Registration No. 1,475,795 was issued on February 9, 1988. See Exhibit 25. The POWERPOINT trademark is broadly recognized as a brand identifier for Microsoft's presentation software.
- 28. The Microsoft Marks are distinctive and, as a result of Microsoft's substantial investment, they have developed extensive goodwill in the market. Accordingly, the Microsoft Marks are extremely valuable to Microsoft.

<u>DEFENDANTS' INFRINGEMENT</u>

29. Beginning at a time unknown and continuing to the present, defendants have actively engaged in the illegal and unlawful business of advertising, distributing, and selling

counterfeit copies of computer software, including programs covered by Microsoft's registered copyrights and bearing Microsoft's registered trademarks or imitations thereof.

- 30. Defendants advertise and distribute counterfeit copies of Microsoft software in interstate commerce on the Internet by using, among other channels, the Internet auction site eBay (www.ebay.com). Defendants conduct some of their online sales under the seller identification "minervasfurn."
- 31. Microsoft investigators conducted initial purchases of one or more units of the programs Office 2007 and Office 2003 through eBay from an internet seller who, upon information and belief, was owned or operated by defendants. After analyzing the software media received from defendants, Microsoft determined they were counterfeit copies.
- 32. Following this initial purchase, Microsoft notified defendants that they were selling counterfeit copies of Microsoft software and demanded that defendants cease and desist their infringing activity.
- 33. Despite this demand, defendants continued to sell counterfeit copies of Microsoft software. After giving defendants notice of their counterfeit sales, Microsoft purchased from defendants, through direct email, one or more additional units of Office 2003. Microsoft again analyzed the software media received from defendants and determined they were counterfeit copies.
- 34. Defendants' continued distribution and sale of counterfeit copies of Microsoft software has caused and is continuing to cause consumers to be confused, mistaken or deceived about the authenticity of Microsoft products distributed by defendants. Defendants' wrongful conduct has caused and is continuing to cause harm to Microsoft's business reputation and goodwill.
- 35. Defendants' violations are willful, deliberate, and committed with prior notice and knowledge of Microsoft's copyrights and registered marks. Defendants' wrongful

conduct has caused and continues to cause significant and irreparable harm to Microsoft. Microsoft brings this action to recover damages for the harm it has sustained, to impose a constructive trust upon defendants' illegal profits and assets purchased with those profits, and to obtain injunctive relief prohibiting defendants' further violations and infringements.

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FIRST CAUSE OF ACTION

(Copyright Infringement, 17 U.S.C. §§ 501 et seq.)

- 36. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 35, inclusive.
- 37. Microsoft is the sole owner and licensor of the software programs identified in paragraph 10 above, as well as other software covered by Microsoft's registered copyrights and bearing Microsoft's registered trademarks or imitations thereof, and of all corresponding copyrights and Certificates of Registration.
- 38. Defendants have infringed the copyrights in Microsoft's software, including, but not limited to those identified in paragraph 10 above, as well as other software covered by Microsoft's registered copyrights and bearing Microsoft's registered trademarks or imitations thereof, by distributing infringing materials in the United States of America, without approval or authorization from Microsoft.
- 39. Defendants' conduct has been willful within the meaning of the Copyright Act. At a minimum, defendants acted with willful blindness to and in reckless disregard of Microsoft's registered copyrights.
- 40. As a result of their wrongful conduct, defendants are liable to Microsoft for copyright infringement. Microsoft has suffered, and will continue to suffer, substantial losses, including, but not limited to, damage to its business reputation and goodwill.

Microsoft is entitled to recover damages, which include its losses and all profits defendants have made as a result of their wrongful conduct, pursuant to 17 U.S.C. § 504(b).

- 41. Alternatively, Microsoft is entitled to statutory damages pursuant to 17 U.S.C. § 504(c). In addition, because defendants' infringement has been willful within the meaning of the Copyright Act, the award of statutory damages should be enhanced pursuant to 17 U.S.C. § 504(c)(2).
- 42. Microsoft is also entitled to injunctive relief enjoining defendants' wrongful conduct pursuant to 17 U.S.C. § 502 and an order impounding all infringing materials pursuant to 17 U.S.C. §§ 503 and 509(a). Microsoft has no adequate remedy at law for defendants' wrongful conduct because, among other things: (a) Microsoft's copyrights are unique and valuable property which have no readily determinable market value; (b) defendants' infringement harms Microsoft's business reputation and goodwill such that Microsoft could not be made whole by any monetary award; and (c) defendants' wrongful conduct, and the resulting damage to Microsoft, is continuing.
- 43. Microsoft is also entitled to recover its attorneys' fees and costs of suit pursuant to 17 U.S.C. § 505.

SECOND CAUSE OF ACTION

(Trademark Infringement, 15 U.S.C. §§ 1114 et seq.)

- 44. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 43, inclusive.
- 45. Defendants' activities constitute infringement of Microsoft's federally registered trademarks and/or service mark in violation of the Lanham Act, including, but not limited to, 15 U.S.C. § 1114(1).
- 46. Because Microsoft advertises, markets, distributes, and licenses its software under the trademarks and/or service mark described in this Complaint, these trademarks

and/or service mark are the means by which Microsoft's software is distinguished from the software or products of others in the same field or related fields.

- 47. Because of Microsoft's long, continuous, and exclusive use of these trademarks and/or service mark, they have come to mean, and are understood by customers, end users, and the public to signify software or services of Microsoft.
- 48. Defendants' wrongful conduct includes the distribution of counterfeit copies of Microsoft software with unauthorized reproductions of registered Microsoft trademarks and/or service mark. The infringing materials that defendants have and are continuing to use, offer, advertise, market, install or distribute are likely to cause confusion, mistake or deception as to their source, origin or authenticity.
- 49. Defendants' activities are likely to lead the public to conclude, incorrectly, that the infringing materials that defendants are using, advertising, installing, marketing, offering or distributing originate with or are authorized by Microsoft, to the damage and harm of Microsoft, its licensees, and the public.
- 50. Defendants used, offered, advertised, marketed, installed or distributed infringing material with the willful and calculated purposes of (a) misleading, deceiving or confusing customers and the public as to the origin and authenticity of the infringing materials and (b) trading upon Microsoft's business reputation and goodwill. At a minimum, defendants acted with willful blindness to and in reckless disregard of Microsoft's registered marks.
- 51. As a result of their wrongful conduct, defendants are liable to Microsoft for trademark infringement. Microsoft has suffered, and will continue to suffer, substantial losses, including, but not limited to, damage to its business reputation and goodwill. Microsoft is entitled to recover damages, which include its losses and all profits defendants have made as a result of their wrongful conduct, pursuant to 15 U.S.C. § 1117(a).

- 52. Alternatively, Microsoft is entitled to statutory damages pursuant to 15 U.S.C. § 1117(c). In addition, because defendants' infringement of Microsoft's trademarks and/or service mark was willful, within the meaning of the Lanham Trademark Act, the award of damages and profits should be trebled pursuant to 15 U.S.C. § 1117(b).
- 53. Microsoft is also entitled to injunctive relief enjoining defendants' wrongful conduct pursuant to 15 U.S.C. § 1116(a), and to an order impounding all infringing materials pursuant to 15 U.S.C. § 1116, subsections (a) and (d)(1)(A). Microsoft has no adequate remedy at law for defendants' wrongful conduct because, among other things:

 (a) Microsoft's trademarks and/or service mark are unique and valuable property which have no readily determinable market value; (b) defendants' infringement constitutes harm to Microsoft's business reputation and goodwill such that Microsoft could not be made whole by any monetary award; (c) if defendants' wrongful conduct is allowed to continue, the public is likely to become further confused, mistaken or deceived as to the source, origin or authenticity of the infringing materials; and (d) defendants' wrongful conduct, and the resulting damages to Microsoft, is continuing.
- 54. Microsoft is also entitled to recover its attorneys' fees and costs of suit pursuant to 15 U.S.C. § 1117.

THIRD CAUSE OF ACTION

(False Designation of Origin, 15 U.S.C. §§ 1125 et seq.)

- 55. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 54, inclusive.
- 56. Because Microsoft advertises, markets, distributes, and licenses its software under the trademarks and/or service mark described in this Complaint, these trademarks and/or service mark are the means by which Microsoft's software is distinguished from the software or products of others in the same or related fields.

- 57. Because of Microsoft's long, continuous, and exclusive use of these trademarks and/or service mark, they have come to mean, and are understood by customers, end users, and the public to signify software or services of Microsoft.
- 58. Microsoft has designed distinctive and aesthetically pleasing displays, logos, icons, graphic images, and packaging (collectively, "Microsoft visual designs") for its software programs.
- 59. Defendants' wrongful conduct includes the use, advertising, marketing, offering or distribution of Microsoft's marks, name, and/or imitation visual designs (specifically displays, logos, icons, graphic designs, and/or packaging) that are virtually indistinguishable from Microsoft's visual designs, in connection with their goods and services.
- 60. Defendants engaged in such wrongful conduct with the willful purpose of (a) misleading, deceiving or confusing customers and the public as to the origin and authenticity of the goods and services offered, marketed or distributed in connection with Microsoft's marks, name, and imitation visual designs and (b) trading upon Microsoft's business reputation and goodwill.
- 61. Defendants' conduct constitutes (a) false designation of origin, (b) false or misleading description, and (c) false or misleading representation that the imitation visual design originate from or are authorized by Microsoft, all in violation of section 43(a) of the Lanham Trademark Act, set forth at 15 U.S.C. § 1125(a).
- 62. Defendants' wrongful conduct is likely to continue unless restrained and enjoined.
- 63. As a result of defendants' wrongful conduct, Microsoft has suffered and will continue to suffer substantial losses, including, but not limited to, damage to its business reputation and goodwill.

- 64. Microsoft is entitled to injunctive relief enjoining defendants' wrongful conduct pursuant to 15 U.S.C. § 1125(a), and to an order impounding all imitation visual designs being used, offered, advertised, marketed, installed or distributed by defendants. Microsoft has no adequate remedy at law for defendants' wrongful conduct because, among other things; (a) Microsoft's marks, names, and visual designs are unique and valuable property, which have no readily determinable market value; (b) defendants' advertising, marketing, installation or distribution of imitation visual designs constitutes harm to Microsoft's business reputation and goodwill such that Microsoft could not be made whole by any monetary award; and (c) defendants' wrongful conduct, and the resulting damage to Microsoft, is continuing.
- 65. Microsoft is also entitled to recover its attorneys' fees and costs of suit pursuant to 15 U.S.C. § 1117.

FOURTH CAUSE OF ACTION

(Constructive Trust Upon Illegal Profits)

- 66. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 65, inclusive.
- 67. Defendants' acts and conduct constitute deceptive, fraudulent, and wrongful conduct in the nature of passing off the counterfeit copies of infringing software as approved or authorized by Microsoft.
- 68. By virtue of defendants' wrongful acts and conduct, defendants have illegally received money and profits that rightfully belong to Microsoft.
- 69. Microsoft is also entitled, pursuant to 15 U.S.C. § 1117(a) and 17 U.S.C. § 504(b), to recover all profits of defendants that are attributable to their acts of infringement or violations thereof.

- 70. Upon information and belief, defendants hold the illegally received money and profits in the form of bank accounts, real property, and personal property (including motor vehicles) that can be located and traced.
- 71. Defendants hold the money and profits they illegally received as constructive trustee for the benefit of Microsoft.

FIFTH CAUSE OF ACTION

(Accounting)

- 72. Microsoft repeats and incorporates by this reference each and every allegation as set forth in paragraphs 1 through 71, inclusive.
- 73. Microsoft is entitled, pursuant to 15 U.S.C. § 1117(a) and 17 U.S.C. § 504(b), to recover all profits of defendants that are attributable to their acts of infringement or violations thereof.
- 74. The amount of money due from defendants to Microsoft is unknown to Microsoft and cannot be ascertained without a detailed accounting by defendants of the precise number of units of infringing material offered for distribution and distributed by defendants.

PRAYER FOR RELIEF

WHEREFORE, Microsoft respectfully requests judgment as follows:

- 1. That the Court enter a judgment against defendants finding that they have:
 - a. willfully infringed Microsoft's rights in federally registered copyrights;
- b. willfully infringed Microsoft's rights in federally registered trademarks and/or service mark;
- c. committed and is committing acts of false designation of origin, false or misleading description of fact, and false or misleading representation against Microsoft; and

- d. otherwise injured the business reputation and business of Microsoft by the acts and conduct set forth in this Complaint;
- 2. That the Court issue permanent injunctive relief against defendants, and that defendants, their agents, representatives, servants, employees, attorneys, successors and assigns, and all others in active concert or participation with defendants, be enjoined and restrained from:
- a. imitating, copying or making any other infringing use or infringing distribution of the software and/or materials protected by Microsoft's copyrights, registered trademarks, and/or service mark;
- b. manufacturing, assembling, producing, distributing, offering for distribution, circulating, selling, offering for sale, advertising, importing, promoting or displaying any software, item or thing bearing any simulation, reproduction, counterfeit, copy or colorable imitation of software, item or thing protected by Microsoft's copyrights, registered trademarks, and/or service mark;
- c. using any simulation, reproduction, counterfeit, copy or colorable imitation of Microsoft's registered copyrights, registered trademarks, and/or service mark, in connection with the manufacture, assembly, production, distribution, offering for distribution, circulation, sale, offering for sale, import, advertisement, promotion or display of any software program, item, and/or thing not authorized or licensed by Microsoft;
- d. using any false designation of origin or false or misleading description or false or misleading representation that can or is likely to lead the trade or public erroneously to believe that any software program, item or thing has been manufactured, assembled, produced, distributed, offered for distribution, circulation, sold, offered for sale, imported, advertised, promoted, displayed, licensed, sponsored, approved or authorized by or for Microsoft, when such is not true in fact;

- e. using reproductions, counterfeits, copies or colorable imitations of Microsoft's copyrighted and trademark protected software and other materials in the distribution, offering for distribution, circulating, sale, offering for sale, advertising, importing, promoting or displaying of any merchandise not authorized or licensed by Microsoft;
- f. using the names, logos, or other variations thereof, of any of Microsoft's copyright and/or trademark-protected software in any of the defendants' trade or corporate names;
- g. engaging in any other activity constituting an infringement of any of Microsoft's trademarks, service mark, and/or copyrights or of Microsoft's rights in or right to use or to exploit, these trademarks, service mark, and/or copyrights; and
- h. assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs a through g above.
- 3. That the Court enter an order impounding all counterfeit copies and infringing Microsoft software and/or materials bearing any of Microsoft's trademarks or service mark or any Microsoft documentation or packaging, and any related items, including business records, that are in defendants' possession or under defendants' control, and ordering the remedial destruction of all impounded items.
- 4. That the Court enter an order declaring that defendants hold in trust, as constructive trustee for the benefit of Microsoft, all "profits" received by defendants from their distribution or sale of counterfeit and infringing Microsoft software and/or materials, and issue temporary, preliminary and permanent injunctive relief enjoining and restraining defendants and their agents from transferring, concealing or dissipating all profits and assets acquired in whole or in part with those profits.

- 5. That the Court enter an order requiring defendants to provide Microsoft a full and complete accounting of all profits received by defendants from their distribution or sale of counterfeit and infringing Microsoft software and/or materials, and of any other amounts due and owing to Microsoft as a result of defendants' illegal activities.
- 6. That the Court order defendants to pay Microsoft's general, special, actual, and statutory damages, including defendants' profits, for defendants' willful infringement of Microsoft's copyrights, registered trademarks, and/or service mark.
- 7. That the Court order defendants to pay to Microsoft the costs of this action and the reasonable attorneys' fees incurred by Microsoft in prosecuting this action.
- 8. That the Court grant to Microsoft such other and additional relief as is just and proper.

DATED this 2nd day of December 2008.

K&L GATES LLP

David A. Bateman, wsba # 14262 Michelle Jensen, wsba # 36611

Attorneys for Plaintiff Microsoft Corporation

EXHIBIT 1

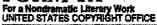
Certificate of Registration



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EXHIBIT 3

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UNITED STATES COPYRIGHT OFFICE



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EXHIBIT 4

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters
Register of Copyrights, United States of America

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Mar 30 2005)

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EXHIBIT 5

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Register of Copyrights, United States of America

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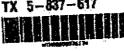
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Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 3,238,869

United States Patent and Trademark Office

Registered May 8, 2007

#### TRADEMARK PRINCIPAL REGISTER

### **ACCESS**

MICROSOFT CORPORATION (WASHINGTON CORPORATION)

ONE MICROSOFT WAY

REDMOND, WA 980526399

FOR: GENERAL PURPOSE COMPUTER DATA-BASE SOFTWARE, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 11-0-1992; IN COMMERCE 11-0-1992.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,739,829, 1,741,086, AND 2,254,102.

SEC. 2(F).

SER. NO. 78-559,056, FILED 2-2-2005.

ANNE E. GUSTASON, EXAMINING ATTORNEY

Prior U.S. Cls.: 21, 23, 26, 36 and 38

United States Patent and Trademark Office

Reg. No. 2,942,050 Registered Apr. 19, 2005

TRADEMARK PRINCIPAL REGISTER

### **EXCEL**

MICROSOFT CORPORATION (WASHINGTON CORPORATION) ONE MICROSOFT WAY REDMOND, WA 980526399

FOR: COMPUTER SOFTWARE, NAMELY, SPREADSHEET SOFTWARE; AND COMPUTER PROGRAMS FOR CREATING CHARTS AND GRAPHS FROM ELECTRONIC SPREADSHEETS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 9-30-1985; IN COMMERCE 9-30-1985.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-400,429, FILED 4-12-2004.

. WON TEAK OH, EXAMINING ATTORNEY

Int. Cls.: 9, 16, 35, 38, 39, 41, and 42

Prior U.S. Cls.: 2, 5, 21, 22, 23, 26, 29, 36, 37, 38, 50, 100, 101, 102, 104, 105, and 107

United States Patent and Trademark Office

Reg. No. 2,830,702 Registered Apr. 6, 2004

#### TRADEMARK SERVICE MARK PRINCIPAL REGISTER

### groove

GROOVE NETWORKS, INC. (DBLAWARE COR-PORATION) 100 CUMMINGS CENTER SUITE 535Q BEVERLY, MA 01915

FOR: COMPUTER SOFTWARE USED TO FACILITATE AND COORDINATE SYNCHRONOUS AND ASYNCHRONOUS COMMUNICATIONS AND COLLABORATION AMONG USERS, THIRD-PARTY SOFTWARE PROGRAMS, COMPUTER SERVERS OR PROCESSORS; DOWNLOADABLE ELECTRONIC PUBLICATIONS IN THE NATURE OF MAGAZINES, REPORTS, BUSINESS PLANS, AND MANUALS ABOUT COMPUTER SOFTWARE, COMPUTER TECHNOLOGY OR ELECTRONIC INFORMATION, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 10-24-2000; IN COMMERCE 10-24-2000.

FOR: PRINTED PUBLICATIONS IN THE NAT-URE OF MAGAZINES, REPORTS, BUSINESS PLANS, AND MANUALS ABOUT COMPUTER SOFTWARE, COMPUTER TECHNOLOGY OR ELECTRONIC INFORMATION, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 10-24-2000; IN COMMERCE 10-24-2000.

FOR: PROVIDING COMPUTER AND USER DIRECTORY LISTINGS IN THE FIELDS OF DEVELOPMENT, USE AND DISTRIBUTION OF SOFTWARE USED TO FACILITATE AND COORDINATE SYNCHRONOUS AND ASYNCHRONOUS INTERPERSONAL COMMUNICATIONS AND COLLABORATION AMONG THIRD-PARTY SOFTWARE PROGRAMS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-24-2000; IN COMMERCE 10-24-2000.

FOR: PROVISION OF TELECOMMUNICATIONS CONNECTIONS TO A GLOBAL COMPUTER NETWORK, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 10-24-2000; IN COMMERCE 10-24-2000.

FOR: PROVIDING ELECTRONIC STORAGE, NAMELY, A DATABASE CONTAINING USER COMMUNICATIONS MESSAGES INTENDED FOR THIRD-PARTIES, IN CLASS 39 (U.S. CLS. 100 AND 105).

FIRST USE 10-24-2000; IN COMMERCE 10-24-2000.

FOR: TRAINING IN THE USE AND OPERATION OF COMPUTER SOFTWARE USED TO FACILITATE AND COORDINATE SYNCHRONOUS AND ASYNCHRONOUS INTERPERSONAL COMMUNICATIONS AND COLLABORATION AMONG THIRD-PARTY SOFTWARE PROGRAMS, COMPUTER SERVERS OR PROCESSORS AND USERS SHARING INFORMATION; AND OF HARDWARE CONTAINING A MICROPROCESSOR OF MICROCONTROLLER AND CONTROLLABLE BY SOFTWARE OR FIRMWARE, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 10-24-2000; IN COMMERCE 10-24-2000.

FOR: SUPPORT SERVICES, NAMELY, SOFT-WARE MAINTENANCE; TECHNICAL HELP DESK SUPPORT SERVICES, NAMELY, TROUBLESHOOT-ING AND MAINTENANCE OF COMPUTER SOFT-WARE PROBLEMS VIA TELEPHONE AND ONLINE; PROVIDING ELECTRONIC DATABASES CONTAINING INFORMATION IN THE FIELD OF DEVELOPMENT, DEPLOYMENT, USE AND DIS-

Prior U.S. Cls.: 21, 23, 26, 36, and 38

United States Patent and Trademark Office

Reg. No. 2,890,260 Registered Sep. 28, 2004

#### TRADEMARK PRINCIPAL REGISTER

#### **INFOPATH**

MICROSOFT CORPORATION (WASHINGTON CORPORATION) ONE MICROSOFT WAY REDMOND, WA 980526399

FOR: COMPUTER SOFTWARE, NAMELY, SOFTWARE TO DESIGN, CREATE, EDIT AND PUBLISH DOCUMENTS; AND COMPUTER PROGRAMS THAT ASSIST USERS IN DESIGNING, CREATING, EDITING, PUBLISHING AND COMPLETING

DOCUMENTS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 2-19-2003; IN COMMERCE 2-19-2003.

SN 78-201,363, FILED 1-8-2003.

ESTHER BELENKER, EXAMINING ATTORNEY

Int. Cls.: 9 and 42

Prior U.S. Cls.: 26, 38 and 101

United States Patent and Trademark Office

Reg. No. 1,200,236 Registered Jul. 6, 1982

TRADEMARK SERVICE MARK Principal Register

#### MICROSOFT

Microsoft (partnership) Suite \$19 10800 NE, 8th Bellevue, Wash, 98004

For: COMPUTER PROGRAMS, in CLASS 9 (U.S. Cls. 26 and 38).

First use Nov. 12, 1975; in commerce Nov. 12, 1975.

For COMPUTER PROGRAMMING SER-

VICES, in CLASS 42 (U.S. Cl. 101).

First use Nov. 12, 1975; in commerce Nov. 12, 1975.

Ser. No. 236,080, filed Oct. 22, 1979.

B. H. VERTIZ, Primary Examiner

CHERYL LYNNE HENDERSON, Examiner

#### Certificate of Correction

Registered July 6, 1982

Registration No. 1,200,236

Microsoft Corporation, by change of name and assignment from Microsoft

It is hereby certified that the above identified registration is in error requiring correction as follows:

In the statement, column 1, before line 1, Microsoft Corporation (Washington corporation), 10700 Northup Way, Bellevue, Wash. 98004, by change of name and assignment from should be inserted.

The said registration should be read as corrected above.

Signed and sealed this 3rd day of April 1984.

Attest Mahlen

Guel Manighty

Prior U.S. Cls.: 100, 101 and 104

## United States Patent and Trademark Office Registered Apr. 9, 1996

### SERVICE MARK PRINCIPAL REGISTER

#### MICROSOFT

MICROSOFT CORPORATION (WASHINGTON CORPORATION) ONE MICROSOFT WAY REDMOND, WA 980526399

FOR: TELECOMMUNICATIONS SERVICES, NAMELY THE RECEIPT AND DELIVERY OF MESSAGES, DOCUMENTS AND OTHER DATA BY ELECTRONIC TRANSMISSION, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 3-24-1987; IN COMMERCE 3-24-1987.

OWNER OF U.S. REG. NOS. 1,200,236, 1,731,160 AND OTHERS.

SER. NO. 74-590,997, FILED 10-26-1994.

PAUL KRUSE, EXAMINING ATTORNEY

Prior U.S. Cls.: 100, 101 and 104

Reg. No. 2,250,973

### United States Patent and Trademark Office

Registered June 8, 1999

SERVICE MARK PRINCIPAL REGISTER

#### MICROSOFT

MICROSOFT CORPORATION (WASHINGTON CORPORATION) ONE MICROSOFT WAY **REDMOND, WA 980526399** 

FOR: TELECOMMUNICATION SERVICES, NAMELY, THE RECEIPT AND DELIVERY OF MESSAGES, DOCUMENTS, IMAGES AND OTHER DATA BY ELECTRONIC TRANSMISSION; ELECTRONIC MAIL SERVICES; PRO-VIDING BULLETIN BOARD SERVICES AND

CHAT SERVICES BY MEANS OF GLOBAL COMMUNICATION NETWORKS, IN CLASS 38 (U.S. CLS. 100, 101 AND 104), FIRST USE 3-7-1995; IN COMMERCE

OWNER OF U.S. REG. NOS. 1,200,236, 1,673,353 AND OTHERS.

SER. NO. 75-358,289, FILED 9-17-1997.

G. T. GLYNN, EXAMINING ATTORNEY

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,285,870

### United States Patent and Trademark Office

Registered Oct. 12, 1999

#### TRADEMARK PRINCIPAL REGISTER

#### **MICROSOFT**

MICROSOFT CORPORATION (WASHINGTON CORPORATION ONE MICROSOFT WAY **REDMOND, WA 980526399** 

FOR: COMPUTER PROGRAMS FOR USE IN AUTOMOBILES, NAMELY, COMPUTER PRO-GRAMS FOR MONITORING AUTOMOBILE PERFORMANCE, FOR MAPPING AND NAVI-GATION, FOR ELECTRONIC MAIL AND WIRELESS COMMUNICATION, FOR MAIN-TAINING PERSONAL DIRECTORIES, CON-TACT LISTS, ADDRESS AND TELEPHONE NUMBER LISTS; OPERATING SYSTEM PRO-GRAMS AND UTILITIES; COMPUTER PRO-GRAMS FOR USE IN THE DEVELOPMENT OF OTHER PROGRAMS FOR USE IN AUTOMO-BILE COMPUTERS; AND COMPUTER PRO-GRAMS FOR PROVIDING ENTERTAINMENT, TRAFFIC INFORMATION, NEWS AND OTHER INFORMATION; COMPUTER PROGRAMS FOR WALLET-SIZED PERSONAL COMPUTERS. NAMELY, PERSONAL INFORMATION MAN-AGER PROGRAMS WITH CALENDARS, CON-TACT INFORMATION FILES AND TO DO LISTS; NOTE TAKING PROGRAMS; PROGRAMS FOR FACILITATING VOICE, TEXT AND PEN INPUT; ELECTRONIC MAIL PRO-GRAM; ACCESS PROGRAMS FOR GLOBAL COMMUNICATION NETWORKS: PROGRAMS

FOR WIRELESS COMMUNICATIONS; OPER-ATING SYSTEM PROGRAMS AND UTILITIES: COMPUTER PROGRAMS FOR USE IN DEVEL-OPING OTHER PROGRAMS FOR USE ON WALLET-SIZED PERSONAL COMPUTERS; COMPUTER PROGRAMS FOR USE WITH PHONES AND PAGERS; COMPUTER PRO-GRAMS FOR ACCESSING GLOBAL COMMU-NICATION NETWORKS AND DISPLAYING CONTENT THEREFROM; COMPUTER PRO-GRAMS FOR ELECTRONIC PAGERS AND ELECTRONIC PAGER MODULES, NAMELY, OPERATING SYSTEM PROGRAMS AND UTIL-ITIES; COMPUTER PROGRAMS FOR PROVID-ING PAGING AND WIRELESS COMMUNICA-TION FUNCTIONS; COMPUTER PROGRAMS FOR USE WITH HAND-HELD COMPUTERS, NAMELY, OPERATING SYSTEM AND UTILI-TY PROGRAMS; A FULL LINE OF BUSINESS APPLICATION PROGRAMS FOR USE WITH HAND-HELD COMPUTERS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38). FIRST USE 6-0-1980;

IN COMMERCE 12-0-1981.

OWNER OF U.S. REG. NOS. 1,966,382, 2,042,216, AND OTHERS.

SN 75-180,620, FILED 10-10-1996.

HENRY S. ZAK, EXAMINING ATTORNEY

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,844,710

### United States Patent and Trademark Office

Registered May 25, 2004

#### TRADEMARK PRINCIPAL REGISTER

#### ONENOTE

MICROSOFT CORPORATION (WASHINGTON CORPORATION) ONE MICROSOFT WAY REDMOND, WA 980526399

FOR: COMPUTER SOFTWARE FOR USE IN NOTE-TAKING, NAMELY, COMPUTER SOFTWARE FOR RECORDING, ORGANIZING, EDITING AND TRANSMITTING AUDIO AND VISUAL INFORMATION AND IMAGES IN ELECTRONIC FORM; COMPUTER SOFTWARE FOR VIEWING AND EDITING MEETING AGENDAS AND TO-DO LISTS; COMPUTER SOFTWARE FOR REMINDING USERS OF DATES AND EVENTS; COMPUTER SOFTWARE FOR ACCESSING SHARED DOCUMENTS (NOTES); COMPUTER SOFTWARE FOR

USE IN ACCESSING AND TRANSMITTING INFORMATION TO COMPUTER NETWORKS, NAMELY, COMPUTER SOFTWARE FOR EMAILING NOTES AND PUBLISHING NOTES ON COMPUTER NETWORKS; AND COMPUTER PERIPHERALS, NAMELY, ELECTRONIC PENS FOR INPUTTING HANDWRITTEN DATA INTO A COMPUTER, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-6-2003; IN COMMERCE 3-6-2003.

SER, NO. 78-182,506, FILED 11-6-2002.

SHARON MEIER, EXAMINING ATTORNEY

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,188,125

### United States Patent and Trademark Office

Registered Sep. 8, 1998

#### TRADEMARK PRINCIPAL REGISTER

#### **OUTLOOK**

MICROSOFT CORPORATION (WASHINGTON CORPORATION) ONE MICROSOFT WAY REDMOND, WA 980526399

FOR: COMPUTER PROGRAMS FOR PROVIDING ENHANCED ELECTRONIC MAIL AND SCHEDULING CAPABILITIES, FOR USE BY INDIVIDUAL COMPUTER USERS, NAMELY, COMPUTER PROGRAMS FOR MANAGING, VIEWING, AND EDITING FILES, DOCUMENTS, ELECTRONIC MAIL MESSAGES AND PRIVATE NETWORK AND GLOBAL COMPUTER NETWORK COMMUNICATIONS; COMPUTER PROGRAMS FOR MEETING AND EVENT SCHEDULING, MANAGING GROUP CALENDARS, TASK DELEGATION AND REPORTING, RECORDING

NOTES, TRANSFERRING DATA TO AND FROM DATA BASES AND TO AND FROM COMPUTER PROGRAMS AND COMPUTER FILES; ADDRESS BOOK PROGRAMS, TELE-PHONE DIALING PROGRAMS, PROGRAMS FOR CORRECTING TYPOGRAPHICAL AND CAPITALIZATION ERRORS, PROGRAMS FOR TALLYING VOTING RESPONSES; AND INSTRUCTION MANUALS THEREFOR SOLD AS A UNIT, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-1-1997; IN COMMERCE 1-1-1997.

SN 75-053,439, FILED 2-5-1996.

FRANCES G. SMITH, EXAMINING ATTOR-

Prior U.S. Cl.: 38

Reg. No. 1,475,795 d Feb. 9, 1988

Int. Cl.: 9

Prior U.S. Cl.: 38

United States Patent and Trademark Office

Corrected

Reg. No. 1,475,795 Registered Feb. 9, 1988 OG Date Jane 28, 1988

#### TRADEMARK PRINCIPAL REGISTER

#### **POWERPOINT**

COMMERC

987.

MICROSOFT CORPORATION (DELA-WARE CORPORATION) BOX 97017 16011 NE WAY RODMOND, WA 930139717, ASSIGNEE OF FORETHOUGHT, INC. (CALIFOR-NIA CORPORATION) SUNNYVALE,

FOR: PRERECORDED COMPUTER PROGRAMS RECORDED ON MAGNET-IC DISKS, IN CLASS 9 (U.S. CL. 38). FIRST USE 4-20-1987: IN COMMERCE 4-20-1987.

SER. NO. 669,735, FILED 6-29-1987.

INING ATTC



In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on June 28, 1988.

COMMISSIONER OF PATENTS AND TRADEMARKS