

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>MICROSOFT CORPORATION,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. _____</b>
	)	
<b>v.</b>	)	
	)	
<b>IRON OAK TECHNOLOGIES, LLC,</b>	)	<b>Jury Trial Requested</b>
	)	
<b>Defendant.</b>	)	
	)	
	)	

**COMPLAINT**

Microsoft Corporation (“Microsoft”) hereby alleges for its complaint against Iron Oak Technologies, LLC on personal knowledge as to its own activities and on information and belief as to the activities of others as follows:

**NATURE OF THE ACTION**

1. This is an action for a declaratory judgment that Microsoft, through its actions or through the normal, advertised and expected use of its products, services or technology, has not infringed, induced others to infringe, or contributed to the infringement by others of any claim of United States Patent Nos. 5,699,275 (“the ’275 Patent”) and 5,966,658 (“the ’658 Patent”) (collectively, “the Patents-in-Suit”). This relief is necessary because Defendant Iron Oak Technologies, LLC (“Iron Oak”) has accused Microsoft of infringing the ’275 Patent and the ’658 Patent and demanded that Microsoft license those patents. Further, Iron Oak has sued third parties, including Microsoft customers, alleging that they infringe the ’275 Patent and/or the ’658 Patent in reliance on Microsoft products, services and technology under Iron Oak’s infringement theories. Iron Oak’s claims and references to Microsoft software have placed a cloud over Microsoft and its

products, have injured and are injuring Microsoft's business and business relationships, and have created a concrete and immediate justiciable controversy between Microsoft and Iron Oak.

### **PARTIES**

2. Plaintiff Microsoft is a Washington state corporation with its principal place of business located at One Microsoft Way, Redmond, Washington 98052.

3. Defendant Iron Oak is a limited liability company organized under the laws of the State of Texas and has its principal place of business at 3605 Scranton Drive, Richland Hills, Texas 76118.

### **JURISDICTION AND VENUE**

4. This action arises under the United States patent laws and includes a request for declaratory relief under 28 U.S.C. §§ 2201 and 2202.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338, and 2201, and 35 U.S.C. § 1, et seq.

6. Iron Oak is subject to personal jurisdiction in this judicial district. Iron Oak is a Texas limited liability company with its primary place of business located within this district, and it has sufficient business or contacts within the State of Texas to justify jurisdiction under the United States Constitution and the Texas Long Arm Statute.

7. Venue is proper under 28 U.S.C. §§ 1391(b)-(c) and 28 U.S.C. § 1400(b).

### **EXISTENCE OF AN ACTUAL CONTROVERSY**

8. Microsoft re-alleges and incorporates by reference each of Paragraphs 1-7 above.

9. An actual controversy exists within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

10. Iron Oak purports to be the current owner of the '275 Patent, entitled "System

and Method for Remote Patching of Operating Code Located in a Mobile Unit.” A copy of the ’275 Patent is attached hereto as Exhibit A.

11. Iron Oak purports to be the current owner of the ’658 Patent, entitled “Automated Selection of a Communication Path.” A copy of the ’658 Patent is attached hereto as Exhibit B.

12. On May 12, 2017, Iron Oak sent a letter to Microsoft alleging that Microsoft has infringed one or more claims of each of the Patents-in-Suit. A copy of this letter is attached as Exhibit C.

13. In its letter, Iron Oak states:

Based on our review of [Microsoft’s] products and services, we have concluded that your company has likely practiced the claimed subject matter of several of Iron Oak’s [patents] during the enforceable term of those patents and, therefore, requires a license or release under those patents.

...

If Microsoft is interested in trying to reach an agreement concerning Iron Oak’s portfolio, time is of the essence. Iron Oak has recently initiated actions against Acer, Asus, Toshiba, Fujitsu, Lenovo, and Samsung for infringement of patents in Iron Oak’s portfolio.”

14. Each of the “initiated actions” referenced in Iron Oak’s letter was filed in this district and alleges infringement of the ’275 and ’658 Patents. *See Iron Oak Technologies v. Acer America Corporation, et al.*, 3:16-cv-3321 (N.D. Tex., Dallas Division); *Iron Oak Technologies v. ASUS Computer International, et al.*, 3:16-cv-3322 (N.D. Tex., Dallas Division); *Iron Oak Technologies v. Toshiba America, Inc., et al.*, 3:16-cv-3320 (N.D. Tex., Dallas Division); *Iron Oak Technologies v. Fujitsu America, Inc., et al.*, 3:16-cv-3319 (N.D. Tex., Dallas Division); *Iron Oak Technologies v. Lenovo (United States) Inc., et al.*, 3:17-cv-429 (N.D. Tex., Dallas Division); and *Iron Oak Technologies v. Samsung Electronics America, Inc., et al.*, 3:17-cv-1259 (N.D. Tex., Dallas Division).

15. On October 18, 2017, Iron Oak filed an action in the Western District of Texas alleging infringement of the '275 and '658 Patents against Dell Inc. ("Dell"). *See Iron Oak Technologies v. Dell Inc.*, 1:17-cv-999 (W.D. Tex., Austin Division).

16. On November 10, 2017, Iron Oak filed an action in the Western District of Texas alleging infringement of the '275 and '658 Patents against HP Inc. ("HP"). *See Iron Oak Technologies v. HP Inc.*, 1:17-cv-1068 (W.D. Tex., Austin Division).

17. In its Complaints against Dell and HP, Iron Oak included claim charts purporting to support its infringement theories and referencing Microsoft's products, services and technology, including Automatic Update and automatic network connection features. Copies of these claim charts are attached as Exhibits D and E.

18. Microsoft denies that it or its products have infringed, induced others to infringe or contributed to the infringement by others of any claim of the Patents-in-Suit.

19. Iron Oak's claims and allegations have placed a cloud over Microsoft and its products, have injured and are injuring Microsoft's business and business relationships, and have created a concrete and immediate justiciable controversy between Microsoft and Iron Oak conferring jurisdiction upon this Court pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

**COUNT I:**  
**NONINFRINGEMENT OF U.S. PATENT NO. 5,699,275**

20. Microsoft re-alleges and incorporates the allegations of Paragraphs 1-19 as if set forth herein in their entirety.

21. Neither Microsoft nor its products, services or technology have infringed, directly or indirectly, any claim of the '275 Patent.

22. An actual controversy exists between Microsoft and Iron Oak with respect to whether Microsoft infringes any claim of the '275 Patent.

23. Microsoft seeks a declaration that it does not infringe any claim of the '275 Patent.

**COUNT II:**  
**NONINFRINGEMENT OF U.S. PATENT NO. 5,966,658**

24. Microsoft re-alleges and incorporates the allegations of Paragraphs 1-23 as if set forth herein in their entirety.

25. Neither Microsoft nor its products, services or technology have infringed, directly or indirectly, any claim of the '658 Patent.

26. An actual controversy exists between Microsoft and Iron Oak with respect to whether Microsoft infringes any claim of the '658 Patent.

27. Microsoft seeks a declaration that it does not infringe any claim of the '658 Patent.

**PRAYER FOR RELIEF**

WHEREFORE, Microsoft prays for an Order and entry of Judgment against Iron Oak as follows:

A. Declaring that Microsoft does not infringe, directly or indirectly, the '275 Patent;

B. Declaring that Microsoft does not infringe, directly or indirectly, the '658 Patent;

C. Declaring the case exceptional under 35 U.S.C. § 285 and awarding Microsoft its reasonable attorneys' fees in this action;

D. Awarding Microsoft its costs and expenses in this action; and

E. Granting such other and further relief as the Court deems proper and just.

**DEMAND FOR JURY TRIAL**

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

Dated: January 26, 2018

Respectfully submitted,

*/s/ Michael D. Hatcher* \_\_\_\_\_

Michael D. Hatcher  
mhatcher@sidley.com  
Texas Bar No. 24027067  
David Sillers  
dsillers@sidley.com  
Texas Bar No. 24072341  
SIDLEY AUSTIN LLP  
2021 McKinney Avenue, Suite 2000  
Dallas, TX 75201  
(214) 981-3300

Richard A. Cederroth (pro hac vice pending)  
rcederroth@sidley.com  
SIDLEY AUSTIN LLP  
1 S. Dearborn Street  
Chicago, IL 60603  
(312) 853-7000

Michael J. Bettinger (pro hac vice pending)  
mbettinger@sidley.com  
SIDLEY AUSTIN LLP  
555 California Street, Suite 2000  
San Francisco, CA 94104  
(415) 772-1200

ATTORNEYS FOR PLAINTIFF  
MICROSOFT CORPORATION

**CERTIFICATE OF SERVICE**

I certify that on January 26, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

*/s/ Michael D. Hatcher*

Michael D. Hatcher