

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,
Plaintiff,

vs.

BARNES & NOBLE, INC.,
BARNESANDNOBLE.COM LLC, HON
HAI PRECISION INDUSTRY CO., LTD.,
FOXCONN INTERNATIONAL
HOLDINGS LTD., FOXCONN
ELECTRONICS, INC., FOXCONN
PRECISION COMPONENT (SHENZHEN)
CO., LTD., and INVENTEC
CORPORATION,
Defendants.

Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY DEMANDED

Plaintiff Microsoft Corporation (“Microsoft”), for its Complaint for Patent
Infringement against Defendants Barnes & Noble, Inc.; barnesandnoble.com LLC; Hon Hai
Precision Industry Co., Ltd.; Foxconn International Holdings Ltd.; Foxconn Electronics, Inc.;
Foxconn Precision Component (Shenzhen) Co., Ltd.; and Inventec Corporation (collectively,
“Defendants”), alleges as follows:

PARTIES

1
2 1. Plaintiff Microsoft is a Washington corporation having its principal place of
3 business at One Microsoft Way, Redmond, Washington 98052.

4 2. On information and belief, Defendant Barnes & Noble, Inc. is a Delaware
5 corporation with its principal place of business at 122 Fifth Avenue, New York, New York
6 10011.

7 3. On information and belief, Defendant barnesandnoble.com LLC is a Delaware
8 limited liability company with its principal place of business at 122 Fifth Avenue, New York,
9 New York 10011.

10 4. On information and belief, Defendant Hon Hai Precision Industry Co., Ltd.
11 operates under the registered trade name “Foxconn,” and exists under the laws of the Republic
12 of China, with its principal place of business at 2 Zihyou Street, Tucheng City, Taipei County,
13 236 Taiwan.

14 5. On information and belief, Defendant Foxconn International Holdings Ltd. is a
15 subsidiary of Hon Hai Precision Industry Co., Ltd. and exists under the laws of the People’s
16 Republic of China in the Special Administrative Region of Hong Kong, with its principal place
17 of business at 8F Peninsula Tower, 538 Castle Peak Road, Cheung Sha Wan Kowloon, New
18 Territories, Hong Kong.

19 6. On information and belief, Defendant Foxconn Electronics, Inc. is a subsidiary
20 of Defendant Hon Hai Precision Industry Co., Ltd., and exists under the laws of the Republic
21 of China, with its principal place of business at 2 Zihyou Street, Tucheng City, Taipei County,
22 236 Taiwan.

23 7. On information and belief, Defendant Foxconn Precision Component
24 (Shenzhen) Co. Ltd. is a wholly owned subsidiary of Defendant Foxconn Electronics, Inc., and
25 exists under the laws of the Republic of China, with a principal place of business at No. 2, East
Ring Road, No. 10 Industrial Zone, Yousong, Longhua, Shenzhen, Guandong 518109, PRC.

1 5,778,372 (the “372 patent”), U.S. Patent No. 6,339,780 (the “780 patent”), U.S. Patent No.
2 5,889,522 (the “522 patent”), U.S. Patent No. 6,891,551 (the “551 patent”), and U.S. Patent
3 No. 6,957,233 (the “233 patent”) (collectively, the “Microsoft Patents”), which Defendants
4 are infringing and/or inducing others to infringe by making, using, offering to sell, and/or
5 selling in the United States, and/or importing into the United States, products or processes that
6 practice one or more inventions claimed in the Microsoft Patents.

7 15. Defendants have profited through infringement of the Microsoft Patents. As a
8 result of Defendants’ unlawful infringement of the Microsoft Patents, Microsoft has suffered
9 and will continue to suffer damage. Microsoft is entitled to recover from Defendants the
10 damages suffered by Microsoft as a result of Defendants’ unlawful acts.

11 16. On information and belief, Defendants’ infringement of one or more of the
12 Microsoft Patents is willful and deliberate, entitling Microsoft to enhanced damages and
13 reasonable attorney fees and costs.

14 17. On information and belief, Defendants intend to continue their unlawful
15 infringing activity, and Microsoft continues to and will continue to suffer irreparable harm—
16 for which there is no adequate remedy at law—from such unlawful infringing activity unless
17 Defendants are enjoined by this Court.

18 **COUNT I**

19 **INFRINGEMENT OF U.S. PATENT NO. 5,778,372**

20 18. Microsoft realleges and incorporates by reference the allegations set forth in
21 paragraphs 1-17.

22 19. Microsoft is the owner of all right, title, and interest in the ’372 patent, entitled
23 “Remote Retrieval and Display Management of Electronic Document with Incorporated
24 Images,” duly and properly issued by the U.S. Patent and Trademark Office on July 7, 1998. A
25 copy of the ’372 patent is attached as Exhibit A.

20. Defendants have been and/or are directly infringing and/or inducing

1 infringement of and/or contributorily infringing the '372 patent by, among other things,
2 making, using, offering to sell or selling in the United States, or importing into the United
3 States, products and/or services that are covered by at least claims 1 and 5 of the '372 patent,
4 including, by way of example and not limitation, the Barnes & Noble Nook and Nook Color,
5 and the related software loaded onto these handheld electronic computing devices.

6 **COUNT II**

7 **INFRINGEMENT OF U.S. PATENT NO. 6,339,780**

8 21. Microsoft realleges and incorporates by reference the allegations set forth in
9 paragraphs 1-20.

10 22. Microsoft is the owner of all right, title, and interest in the '780 patent, entitled
11 "Loading Status in a Hypermedia Browser Having a Limited Available Display Area," duly
12 and properly issued by the U.S. Patent and Trademark Office on January 15, 2002. A copy of
13 the '780 patent is attached as Exhibit B.

14 23. Defendants have been and/or are directly infringing and/or inducing
15 infringement of and/or contributorily infringing the '780 patent by, among other things,
16 making, using, offering to sell or selling in the United States, or importing into the United
17 States, products and/or services that are covered by at least claims 1-6, 9-14, 17-26, and 29-42
18 of the '780 patent, including, by way of example and not limitation, the Barnes & Noble Nook,
19 and the related software loaded onto this handheld electronic computing device.

20 **COUNT III**

21 **INFRINGEMENT OF U.S. PATENT NO. 5,889,522**

22 24. Microsoft realleges and incorporates by reference the allegations set forth in
23 paragraphs 1-23.

24 25. Microsoft is the owner of all right, title, and interest in the '522 patent, entitled
25 "System Provided Child Window Controls," duly and properly issued by the U.S. Patent and
Trademark Office on March 30, 1999. A copy of the '522 patent is attached as Exhibit C.

1 Electronic Content,” duly and properly issued by the U.S. Patent and Trademark Office on
2 October 18, 2005. A copy of the ‘233 patent is attached as Exhibit E.

3 32. Defendants have been and/or are directly infringing and/or inducing
4 infringement of and/or contributorily infringing the ‘233 patent by, among other things,
5 making, using, offering to sell or selling in the United States, or importing into the United
6 States, products and/or services that are covered by at least claims 21 and 22 of the ‘233 patent,
7 including, by way of example and not limitation, the Barnes & Noble Nook Color, and the
8 related software loaded onto this handheld electronic computing device.

9 **DEMAND FOR JURY TRIAL**

10 33. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Microsoft
11 respectfully requests a trial by jury of all issues properly triable by jury.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Microsoft prays for relief as follows:

14 A. For a judgment declaring that Defendants have infringed each of the Microsoft
15 Patents;

16 B. For a judgment awarding Microsoft compensatory damages as a result of
17 Defendants’ infringement of the Microsoft Patents, together with interest and costs, and in no
18 event less than a reasonable royalty;

19 C. For a judgment declaring that Defendants’ infringement of Microsoft Patents
20 has been willful and deliberate;

21 D. For a judgment awarding Microsoft treble damages and pre-judgment interest
22 under 35 U.S.C. § 284 as a result of Defendants’ willful and deliberate infringement of the
23 Microsoft Patents;

24 E. For a judgment declaring that this case is exceptional and awarding Microsoft
25 its expenses, costs, and attorneys fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule
54(d) of the Federal Rules of Civil Procedure;

1 F. For a grant of a permanent injunction pursuant to 35 U.S.C. § 283, enjoining the
2 Defendants from further acts of infringement; and

3 G. For such other and further relief as the Court deems just and proper.

4 DATED this 21st day of March, 2011.

5 DANIELSON HARRIGAN LEYH & TOLLEFSON LLP

6
7 By /s/ Shane Cramer
8 Arthur W. Harrigan, Jr., WSBA #1751
9 Christopher Wion, WSBA #33207
Shane Cramer, WSBA #35099
Attorneys for Microsoft Corporation

10 Of counsel:

11 T. ANDREW CULBERT (WSBA #35925)
12 andycu@microsoft.com
13 DAVID E. KILLOUGH (WSBA #40185)
davkill@microsoft.com
14 MICROSOFT CORPORATION
1 Microsoft Way
15 Redmond, Washington 98052
Telephone: 425-882-8080
16 Facsimile: 425-869-1327

17 DALE M. HEIST (*pro hac vice to be filed*)
dheist@woodcock.com
18 DANIEL GOETTLE (*pro hac vice to be filed*)
dgoettle@woodcock.com
19 ALEKSANDER J. GORANIN (*pro hac vice to be filed*)
agoranin@woodcock.com
20 WOODCOCK WASHBURN LLP
2929 Arch Street, 12th Floor
21 Philadelphia, PA 19104
Telephone: 215-568-3100
22 Facsimile: 215-568-3439

23 DAVID T. PRITIKIN (*pro hac vice to be filed*)
24 dpritikin@sidley.com
RICHARD A. CEDEROTH (*pro hac vice to be filed*)
25 rcederOTH@sidley.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DOUGLAS I. LEWIS (*pro hac vice to be filed*)
dilewis@sidley.com
JOHN W. MCBRIDE (*pro hac vice to be filed*)
jwmcbride@sidley.com
SIDLEY AUSTIN LLP
One South Dearborn
Chicago, IL 60603
Telephone: 312-853-7000
Facsimile: 312-853-7036

BRIAN R. NESTER (*pro hac vice to be filed*)
bnester@sidley.com
KEVIN C. WHEELER (*pro hac vice to be filed*)
kwheeler@sidley.com
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
Telephone: 202-736-8000
Facsimile: 202-736-8711