

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MICROSOFT CORPORATION,
11 a Washington Corporation,

12 Plaintiff,

13 v.

14 TOMTOM N.V., a Netherlands Corporation,
15 and TOMTOM, INC., a Massachusetts
16 Corporation,

17 Defendants.

Case No: _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY DEMAND

18 Plaintiff Microsoft Corporation (“Microsoft”) for its Complaint For Patent Infringement
19 against Defendants TomTom N.V. and TomTom, Inc. (collectively, the “Defendants”), alleges as
20 follows:

PARTIES

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

23 2. Founded in 1975, Microsoft is a worldwide leader in computer software, services
24 and solutions for businesses and consumers. Since 1979, Microsoft has been headquartered in
25 the Seattle, Washington metropolitan area, currently employs more than 20,000 people in the
26 Seattle area, and occupies nearly 8 million square feet of facilities at its Redmond campus.

1 3. Microsoft has a long history of technical innovation in the software and hardware
2 products it develops and distributes. These software products include operating systems for
3 servers, personal computers, embedded devices, smartphones, PDAs, and other intelligent
4 devices; server applications for distributed computing environments; information worker
5 productivity applications; business solution applications; high-performance computing
6 applications; software development tools; operating systems for automotive applications; and
7 various navigation-related software products and services.

8 4. Upon information and belief, Defendant TomTom N.V. is a Dutch corporation
9 organized and existing under the laws of the Netherlands having a principal place of business at
10 Rembrandtplein 35, Amsterdam 1017 CT, Netherlands.

11 5. Upon information and belief, Defendant TomTom, Inc. is a corporation organized
12 and existing under the laws of Massachusetts and is a wholly-owned subsidiary of TomTom
13 N.V. TomTom, Inc.'s principal place of business is located at 150 Baker Ave Ext., Concord,
14 Massachusetts 01742.

15 6. Upon information and belief, Defendants are in the business of developing,
16 manufacturing, and selling portable navigation computing devices and software for use on those
17 devices, personal computers, PDAs, and smartphones (hereinafter known collectively as
18 "Portable Navigation Devices and Software"). Upon information and belief, Defendants market
19 and distribute their products worldwide, including in the United States, through their channel
20 business partners and various retail companies, at retail stores, through the websites of retail
21 companies, and on their own websites. Upon information and belief, Defendants do business
22 within the Western District of Washington.

23 **JURISDICTION AND VENUE**

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

1 8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
2 1338(a).

3 9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and
4 1400(b). On information and belief, Defendants are subject to this Court's personal jurisdiction,
5 consistent with the principles of due process and the Washington Long Arm Statute, because
6 each Defendant offers for sale and sells Portable Navigation Devices and Software in the
7 Western District of Washington, has transacted business in this District, and/or has committed
8 and/or induced acts of patent infringement in this District. For example, Defendants' own
9 website (e.g., <http://www.tomtom.com/page/giftguide?Lid=4&selector=true>) allows users to
10 purchase Defendants' products for delivery within this District. The website at
11 <http://www.tomtom.com/stores/type.php?ID=2&Country=223> directs users of the Defendants'
12 website to retail outlets selling Defendants' products within this District. Additionally, the
13 website at <http://www.tomtom.com/stores/type.php?ID=1&Country=223> directs users of the
14 Defendants' website to online merchants selling Defendants' products for delivery within this
15 District.

16 **PATENT INFRINGEMENT COUNTS**

17 10. Microsoft is the owner of all right, title, and interest in U.S. Patent Nos.
18 6,175,789; 7,054,745; 6,704,032; 7,117,286; 6,202,008; 5,579,517; 5,758,352; and 6,256,642
19 (collectively, "the Microsoft patents-in-suit"), which the Defendants are directly infringing
20 and/or inducing others to infringe by making, using, offering to sell or selling in the United
21 States, or importing into the United States, products or processes that practice inventions
22 claimed in the Microsoft patents-in-suit.

23 11. The Defendants have profited through infringement of the Microsoft patents-in-
24 suit. As a result of the Defendants' unlawful infringement of the Microsoft patents-in-suit
25 patent, Microsoft has suffered and will continue to suffer damage. Microsoft is entitled to
26

1 recover from the Defendants the damages suffered by Microsoft as a result of the Defendants’
2 unlawful acts.

3 12. Defendants’ infringement of the Microsoft patents-in-suit constitutes willful and
4 deliberate infringement, entitling Microsoft to enhanced damages and reasonable attorney fees
5 and costs. Microsoft provided defendant TomTom N.V. notice of its infringement allegations in
6 a June 13, 2008 letter to Peter-Frans Pauwels, Chief Technical Officer of Defendant TomTom
7 N.V. Upon information and belief, Defendant TomTom, Inc. received notice of Microsoft’s
8 infringement allegations from its parent, TomTom N.V.

9 13. Upon information and belief, the Defendants intend to continue their unlawful
10 infringing activity, and Microsoft continues to and will continue to suffer irreparable harm—for
11 which there is no adequate remedy at law—from such unlawful infringing activity unless
12 Defendants are enjoined by this Court.

13 **COUNT I**

14 **INFRINGEMENT OF U.S. PATENT NO. 6,175,789**

15 14. Microsoft realleges and incorporates by reference the allegations set forth in
16 paragraphs 1-13.

17 15. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,175,789
18 (“the ‘789 patent”), entitled “Vehicle Computer System with Open Platform Architecture” duly
19 and properly issued by the U.S. Patent and Trademark Office on January 16, 2001. A copy of
20 the ‘789 patent is attached as Exhibit A.

21 16. The Defendants have been and/or are directly infringing and/or inducing others to
22 infringe the ‘789 patent by, among other things, making, using, offering to sell or selling in the
23 United States, or importing into the United States, products, including various Portable
24 Navigation Devices and Software that embody or incorporate, or the operation of which
25 otherwise practices, one or more claims of the ‘789 patent.

26

1 **COUNT II**

2 **INFRINGEMENT OF U.S. PATENT NO. 7,054,745**

3 17. Microsoft realleges and incorporates by reference the allegations set forth in
4 paragraphs 1-13.

5 18. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 7,054,745
6 (“the ‘745 patent”), entitled “Method and System For Generating Driving Directions,” duly and
7 properly issued by the U.S. Patent and Trademark Office on May 30, 2006. A copy of the ‘745
8 patent is attached as Exhibit B.

9 19. The Defendants have been and/or are directly infringing and/or inducing others to
10 infringe the ‘745 patent by, among other things, making, using, offering to sell or selling in the
11 United States, or importing into the United States, products, including various Portable
12 Navigation Devices and Software that embody or incorporate, or the operation of which
13 otherwise practices, one or more claims of the ‘745 patent.

14 **COUNT III**

15 **INFRINGEMENT OF U.S. PATENT NO. 6,704,032**

16 20. Microsoft realleges and incorporates by reference the allegations set forth in
17 paragraphs 1-13.

18 21. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,704,032
19 (“the ‘032 patent”), entitled “Methods and Arrangements for Interacting with Controllable
20 Objects within a Graphical User Interface Environment Using Various Input Mechanisms,” duly
21 and properly issued by the U.S. Patent and Trademark Office on March 9, 2004. A copy of the
22 ‘032 patent is attached as Exhibit C.

23 22. The Defendants have been and/or are directly infringing and/or inducing others to
24 infringe the ‘032 patent by, among other things, making, using, offering to sell or selling in the
25 United States, or importing into the United States, products, including various Portable
26

1 Navigation Devices and Software that embody or incorporate, or the operation of which
2 otherwise practices, one or more claims of the '032 patent.

3 **COUNT IV**

4 **INFRINGEMENT OF U.S. PATENT NO. 7,117,286**

5 23. Microsoft realleges and incorporates by reference the allegations set forth in
6 paragraphs 1-13.

7 24. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 7,117,286
8 (“the '286 patent”), entitled “Portable Computing Device-integrated Appliance,” duly and
9 properly issued by the U.S. Patent and Trademark Office on October 3, 2006. A copy of the
10 '286 patent is attached as Exhibit D.

11 25. The Defendants have been and/or are directly infringing and/or inducing others to
12 infringe the '286 patent by, among other things, making, using, offering to sell or selling in the
13 United States, or importing into the United States, products, including various Portable
14 Navigation Devices and Software that embody or incorporate, or the operation of which
15 otherwise practices, one or more claims of the '286 patent.

16 **COUNT V**

17 **INFRINGEMENT OF U.S. PATENT NO. 6,202,008**

18 26. Microsoft realleges and incorporates by reference the allegations set forth in
19 paragraphs 1-13.

20 27. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,202,008
21 (“the '008 patent”), entitled “Vehicle Computer System with Wireless Internet Connectivity,”
22 duly and properly issued by the U.S. Patent and Trademark Office on March 13, 2001. A copy
23 of the '008 patent is attached as Exhibit E.

24 28. The Defendants have been and/or are directly infringing and/or inducing others to
25 infringe the '008 patent by, among other things, making, using, offering to sell or selling in the
26 United States, or importing into the United States, products, including various Portable

1 Navigation Devices and Software that embody or incorporate, or the operation of which
2 otherwise practices, one or more claims of the '008 patent.

3 **COUNT VI**

4 **INFRINGEMENT OF U.S. PATENT NO. 5,579,517**

5 29. Microsoft realleges and incorporates by reference the allegations set forth in
6 paragraphs 1-13.

7 30. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,579,517
8 (“the '517 patent”), entitled “Common Name Space for Long and Short Filenames,” duly and
9 properly issued by the U.S. Patent and Trademark Office on November 26, 1996. A
10 reexamination certificate was issued by the U.S. Patent and Trademark Office for the '517 patent
11 on November 28, 2006. A copy of the '517 patent, including reexamination certificate, is
12 attached as Exhibit F.

13 31. The Defendants have been and/or are directly infringing and/or inducing others to
14 infringe the '517 patent by, among other things, making, using, offering to sell or selling in the
15 United States, or importing into the United States, products, including various Portable
16 Navigation Devices and Software that embody or incorporate, or the operation of which
17 otherwise practices, one or more claims of the '517 patent.

18 **COUNT VII**

19 **INFRINGEMENT OF U.S. PATENT NO. 5,758,352**

20 32. Microsoft realleges and incorporates by reference the allegations set forth in
21 paragraphs 1-13.

22 33. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,758,352
23 (“the '352 patent”), entitled “Common Name Space for Long and Short Filenames,” duly and
24 properly issued by the U.S. Patent and Trademark Office on May 26, 1998. A reexamination
25 certificate was issued by the U.S. Patent and Trademark Office for the '352 patent on October
26

1 10, 2006. A copy of the '352 patent, including reexamination certificate, is attached as Exhibit
2 G.

3 34. The Defendants have been and/or are directly infringing and/or inducing others to
4 infringe the '352 patent by, among other things, making, using, offering to sell or selling in the
5 United States, or importing into the United States, products, including various Portable
6 Navigation Devices and Software that embody or incorporate, or the operation of which
7 otherwise practices, one or more claims of the '352 patent.

8 **COUNT VIII**

9 **INFRINGEMENT OF U.S. PATENT NO. 6,256,642**

10 35. Microsoft realleges and incorporates by reference the allegations set forth in
11 paragraphs 1-13.

12 36. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,256,642
13 (“the '642 patent”), entitled “Method and System for File System Management Using a Flash-
14 Erasable, Programmable, Read-only Memory” duly and properly issued by the U.S. Patent and
15 Trademark Office on July 3, 2001. A copy of the '642 patent is attached as Exhibit H.

16 37. The Defendants have been and/or are directly infringing and/or inducing others to
17 infringe the '642 patent by, among other things, making, using, offering to sell or selling in the
18 United States, or importing into the United States, products, including various Portable
19 Navigation Devices and Software that embody or incorporate, or the operation of which
20 otherwise practices, one or more claims of the '642 patent.

21 **DEMAND FOR JURY TRIAL**

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

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Microsoft prays for relief as follows:

3 A. For a judgment declaring that each Defendant has infringed at least one claim of
4 each of the Microsoft patents-in-suit;

5 B. For a judgment awarding Microsoft compensatory damages as a result of each
6 Defendant's infringement of the Microsoft patents-in-suit, together with interest and costs, and
7 in no event less than a reasonable royalty;

8 C. For a judgment declaring that each Defendant's infringement of the Microsoft
9 patents-in-suit, has been willful and deliberate;

10 D. For a judgment awarding Microsoft treble damages and pre-judgment interest
11 under 35 U.S.C. § 284 as a result of each Defendant's willful and deliberate infringement of the
12 Microsoft patents-in-suit;

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

16 F. For a grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining each
17 Defendant from further acts of infringement; and

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

19 Respectfully submitted,

20 KLARQUIST SPARKMAN, LLP

21 Dated: February 25, 2009

22 By: s/ Adam R. Wichman
Adam R. Wichman (WSBA No. 38466)
adam.wichman@klarquist.com
John D. Vandenberg (WSBA No. 38445)
john.vandenberg@klarquist.com
600 University Street, Suite 2950
Seattle, WA 98101
Telephone: 206-264-2960
Facsimile: 206-624-2719

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
26

OF COUNSEL:

David E. Killough (WSBA No. 40185)
davkill@microsoft.com
MICROSOFT CORPORATION
One Microsoft Way, 8/2076
Redmond, WA 98052
Telephone: 425-703-8865
Facsimile: 425-869-1327

David T. Pritikin
dpritikin@sidley.com
Richard A. Cederoth
rcederoth@sidley.com
Douglas I. Lewis
dilewis@sidley.com
John W. McBride
jwmcbride@sidley.com
SIDLEY AUSTIN LLP
One South Dearborn
Chicago, IL 60603
Telephone: 312-853-7000
Facsimile: 312-853-7036

Marc R. Ascolese
mascolese@sidley.com
SIDLEY AUSTIN LLP
555 California Street, Suite 2000
San Francisco, CA 94104-1715
Telephone: 415-772-1200
Facsimile: 415-772-7400

Attorneys for Plaintiff
MICROSOFT CORPORATION