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11 Alacritech, Inc.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15 ALACRITECH, INC.,
16 Plaintiff,
17 v.
18 MICROSOFT CORPORATION,
19 Defendant.

20 **Case No. C04 03284**

21 **COMPLAINT FOR PATENT
22 INFRINGEMENT
23 DEMAND FOR JURY TRIAL**

BZ

24 Plaintiff Alacritech, Inc. ("Alacritech"), as and for its Complaint against Defendant
25 Microsoft Corporation ("Defendant"), states as follows:

THE PARTIES

1. Plaintiff Alacritech, Inc. is a corporation organized under the laws of the State of California with a principal place of business at 234 East Gish Road, San Jose California 95112.

ORIGINAL FILED

AUG 1 ~ 2004

RICHARD W. WIRKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-FILING

ADP

1 Defendant manufactures, uses, and offers to sell software and/or systems, including Microsoft
2 Chimney software, which incorporate the inventions claimed in the '171 patent.

3 11. Defendant has been for some time past and is currently infringing the '171 patent
4 in violation of 35 U.S.C. § 271 directly, contributorily, and by inducement by, without limitation,
5 making, using, marketing, and offering for sale software products and/or systems which are
6 covered by the '171 patent, and by inducing others to infringe the '171 patent.

7 12. Defendant's acts of infringement are willful.

8 13. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to damages for infringement.

9 14. Pursuant to 35 U.S.C. § 283, Plaintiff is entitled to a preliminary injunction and a
10 permanent injunction against further infringement.

11
12 COUNT II

13 (Infringement of U.S. Patent No. 6,697,868)

14 15. The allegations of paragraphs 1 – 14 above are incorporated herein by reference.

15 16. This claim is made under the patent laws of the United States, 35 U.S.C. § 271 et
16 seq.

17 17. Plaintiff is owner of U.S. Patent No. 6,697,868 ("the '868 patent") that was duly
18 and legally issued on February 24, 2004 (attached hereto as Exhibit B).

19 18. The '868 patent relates to methods and instructions for network communications,
20 for example by a computer that interacts with a device such as a network interface card.

21 Defendant manufactures, uses, and offers to sell software and/or systems, including Microsoft
22 Chimney software, which incorporate the inventions claimed in the '868 patent.

23 19. Defendant has been for some time past and is currently infringing the '868 patent
24 in violation of 35 U.S.C. § 271 directly, contributorily, and by inducement by, without limitation,
25

1 making, using, marketing, and offering for sale software products and/or systems which are
2 covered by the '868 patent, and by inducing others to infringe the '868 patent.

3 20. For some time prior to issuance of the '868 patent, Defendant had actual notice of
4 the '868 patent.

5 21. Defendant's acts of infringement are willful.

6 22. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to damages for infringement,
7 including provisional rights under 35 U.S.C. § 154(d).

8 23. Pursuant to 35 U.S.C. § 283, Plaintiff is entitled to a preliminary injunction and a
9 permanent injunction against further infringement.

10
11 PRAYER FOR RELIEF

12 WHEREFOR, Plaintiff respectfully prays:

13 A. That Defendant be adjudged to have infringed the '171 patent and the '868 patent;

14 B. That Defendant's infringement of the '171 patent and the '868 patent be adjudged
15 to be willful;

16 C. That Defendant, its officers, agents, servants employees, attorneys, and those
17 persons in active concert or participation with them who receive actual notice of the order by
18 personal service or otherwise, be preliminarily and permanently restrained and enjoined from
19 infringing the '171 patent and the '868 patent;

20 D. For an accounting for damages by virtue of Defendant's infringement of the '171
21 patent and the '868 patent;

22 E. For an award of damages to compensate Plaintiff for Defendant's infringement,
23 pursuant to 35 U.S.C. § 284;

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1 F. For an assessment of pre-judgment and post-judgment interest and costs against
2 Defendants, together with an award of such interest and costs, in accordance with 35 U.S.C. §
3 284;

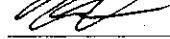
4 G. That Defendant be directed to pay Plaintiff's attorneys' fees incurred herein; and

5 H. That Plaintiff have such other and further relief as this Court may deem just and
6 proper.

7
8 JURY DEMAND

9 Plaintiff hereby demands trial by jury for all issues so triable.
10

11
12 Date: 8-11-04

13 By: 
14 Mark A. Lauer
15 Silicon Edge Law Group LLP
16 Attorneys for Plaintiff
17 Alacritech, Inc.
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