

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

Before the Honorable Theodore R. Essex
Administrative Law Judge

In the Matter of

**CERTAIN HANDHELD ELECTRONIC
COMPUTING DEVICES, RELATED
SOFTWARE, AND COMPONENTS
THEREOF**

Investigation No. 337-TA-769

STIPULATION REGARDING ASSERTION OF CERTAIN CLAIMS

Complainant Microsoft Corporation ("Microsoft") and Respondents Barnes & Noble, Inc. and barnesandnoble.com LLC (collectively, "Barnes & Noble"), collectively referred to as "the Parties," hereby stipulate and agree as follows:

1. To simplify the above-captioned Investigation, streamline the hearing, and conserve the Parties' and Commission's resources in consideration of the amount of time allotted for the hearing, Microsoft hereby withdraws from this Investigation its infringement allegations as to (1) claims 1-3, 5-6, 9-14, 17-20, 22-26, 29-39 and 41-42 of U.S. Patent No. 6,339,780, leaving no asserted claims of that patent; (2) claims 7, 9, and 11 of U.S. Patent No. 6,891,551, leaving claims 1-3, 5, 8 and 10 as the only asserted claims of that patent; (3) claim 21 of U.S. Patent No. 6,957,233, leaving claim 22 as the only asserted claim of that patent; (4) claims 1 and 2 of U.S. Patent No. 5,889,522, leaving claim 12 as the only asserted claim of that patent; and (5) claim 1 of U.S. Patent No. 5,778,372, leaving claim 5 as the only asserted claim of that patent. This stipulation shall not impact any of the other asserted claims. This stipulation is also not an admission as to the merits of any claim.

2. Respondents agree not to use the fact that Microsoft has withdrawn its infringement allegations regarding any of the foregoing claims as evidence in support of their affirmative defense of patent misuse or in support of any other claim, defense or cause of action in this Investigation. Other than the fact that Microsoft has withdrawn the above-referenced claims in this Investigation, Respondents reserve the right to continue to use U.S. Patent No. 6,339,780, U.S. Patent No. 6,891,551, U.S. Patent No. 6,957,233, U.S. Patent No. 5,889,522 and U.S. Patent No. 5,778,372 (and their accompanying claims) for any other purpose in support of their affirmative defense of patent misuse, or in support of any other claim, defense or cause of action (including, but not limited to, the fact that Microsoft has asserted infringement claims against Respondents relating to these five patents).

3. Respondents agree that Microsoft preserves the right to present technical evidence, including testimony disclosed in its expert reports as to infringement or validity, for the above-withdrawn claims if Respondents present technical evidence regarding such withdrawn claims in support of their affirmative defense of patent misuse, or in support of any other claim, defense or cause of action.

4. Respondents reserve the right to respond to any lawful requests or demands from a court of competent jurisdiction or from any third party with the legal authority to require a response from Respondents relating to, among other things, the fact that Microsoft has withdrawn its infringement allegations against Respondents for the above-referenced claims of U.S. Patent No. 6,339,780, U.S. Patent No. 6,891,551, U.S. Patent No. 6,957,233, U.S. Patent No. 5,889,522 and U.S. Patent No. 5,778,372.

Dated: January 9, 2012

/s/ Andrew F. Pratt

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing STIPULATION REGARDING ASSERTION OF CERTAIN CLAIMS was served to the parties, in the manner indicated below, this 9th day of January 2012:

The Honorable James R. Holbein
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VIA ELECTRONIC FILING
 VIA HAND DELIVERY

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/s/ Sara J. Ferguson

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