UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

X1 DISCOVERY, INC.,
Patent Owner.

IPR2025-00253
Patent 7,370,035

PETITIONER'S SUR-REPLY IN SUPPORT OF ITS OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL

LIST OF EXHIBITS

LIST OF NEWLY FILED EXHIBITS

Exhibits concurrently filed with Petitioner's Sur-Reply In Support Of Its Opposition To Patent Owner's Request For Discretionary Denial:

No.	Description
1087	*Windows 10 available as a free upgrade on July 29*, Microsoft Corporation (June 1, 2015)
1088	Terry Myerson, *Hello World: Windows 10 Available on July 29*, http://blogs.windows.com/windowsexperience/2015/06/01/hello-world-windows-10-available-on-july-29/ (June 1, 2015), archived Oct. 4, 2015, at https://web.archive.org/web/20151004065326/http://blogs.windows.com/windowsexperience/2015/06/01/hello-world-windows-10-available-on-july-29/
1089	*Windows Guide, Using Windows Vista,* Microsoft Corporation (2008)
1090	Complaint, *X1 Discovery, Inc. v. Microsoft Corp.* 8:23-cv-02415-GW-JDE (C.D. Cal.), ECF No. 1 (December 19, 2023)
1091	Screenshots from "Superfast searching in Windows Vista" video available at https://www.youtube.com/watch?v=TLL7nk21sIg&t=200s at 1:40-41, 2:53-55 (added July 23, 2008)
1092	Mary Jo Foley, "*Microsoft Releases First Public Test Build of Windows Search 4.0*" http://blogs.zdnet.com/microsoft/?p=1299 (March 27, 2008), archived March 30, 2008 at https://web.archive.org/web/20080330222253/http://blogs.zdnet.com/microsoft/?p=1299
1093	David Pogue, *Windows Vista: The Missing Manual* (2007) (excerpts)

No.	Description
1094	X1 Products webpages, "Overview" and "FAQ" http://www.x1.com/products/x1_search/, http://www.x1.com/products/x1_search/faq.html (2016), archived April 2016 at https://web.archive.org/web/20160405154536/http://www.x1.com/products/x1_search/ and https://web.archive.org/web/20160401084554/http://www.x1.com/products/x1_search/faq.html

LIST OF PREVIOUSLY FILED EXHIBITS

No.	Description
1001	U.S. Patent No. 7,370,035 ("**'035 patent**")
1002	File History of U.S. Patent No. 7,370,035
1003	Declaration of Dr. Loren Terveen, dated December 19, 2024
1004	Steve Schwartz, *Visual QuickStart Guide Entourage 2001 for Macintosh*, Peachpit Press (2001) ("**Entourage-1**")
1005	Bonita Sebastian et al., *Microsoft Office 2001 A Hands-On Guide for Macintosh*, Computer Literacy Press (excerpts) (2000) ("**Entourage-2**")
1006	Nan Barber & David Reynolds, *Office 2001 for Macintosh: The Missing Manual*, Pogue Press/O'Reilly (1st ed.) (Apr. 2001) ("**Entourage-3**")
1007	*Eudora Email User Manual for Windows Version 5.0*, QUALCOMM (Aug. 2000) ("**Eudora**")
1008	Alan R. Neibauer, *Running Microsoft Outlook 2000*, Microsoft Press (excerpts) (1999) ("**Outlook**")
1009	U.S. Patent No. 6,112,172 to True et al. ("**True**")
1010	U.S. Patent No. 5,444,823 to Trung D. Nguyen ("**Nguyen**")
1011	U.S. Patent No. 7,039,635 to Morgan et al. ("**Morgan**")

No.	Description
1012	U.S. Patent Application Publication No. 2002/0055981 to Spaey et al. ("**Spaey**")
1013	U.S. Patent No. 5,845,278 to Kirsch et al. ("**Kirsch**")
1014	U.S. Patent No. 4,255,796 to Gabbe et al. ("**Gabbe**")
1015	U.S. Patent No. 5,692,173 to Chee Heng Chew ("**Chew**")
1016	U.S. Patent No. 6,049,796 to Siitonen et al. ("**Siitonen**")
1017	U.S. Patent No. 5,303,361 to Colwell et al. ("**Colwell**")
1018	U.S. Patent No. 6,741,985 to Robin A. R. Green ("**Green**")
1019	U.S. Patent No. 5,991,756 to Jiong Wu ("**Wu**")
1020	International Patent Application Publication No. WO 00/26762 to Mark Richanbach ("**Richanbach**")
1021	Jef Raskin, *The Humane Interface: New Directions for Designing Interactive Systems*, ACM Press (2000) ("**Raskin**")
1022	Richard M. Stallman, *GNU Emacs Manual* (1st ed.) (Jun. 1985) ("**GNU Emacs**")
1023	Ricardo Baeza-Yates & Berthier Ribeiro-Neto, *Modern Information Retrieval*, ACM Press (1999) ("**Baeza-Yates**")
1024	Sunny Lam, *The Overview of Web Search Engines* (Feb. 9, 2001) ("**Lam**")
1025	Oscar Vallarino, *On The Use Of Bit Maps For Multiple Key Retrieval*, Proceedings of the 1976 Conference on Data: Abstraction, Definition And Structure, 108-114 (Mar. 1976) ("**Vallarino**")
1026	Steve Lawrence & C. Lee Giles, *Context And Page Analysis For Improved Web Search*, IEEE Internet Computing, 38-46 (Jul.-Aug. 1998) ("**Lawrence**")
1027	Rawley D. Johnson et al., *Technical Reference Document Database System (TDOCS) Requirements Definition* (Aug. 1993) ("**Johnson**")

No.	Description
1028	Lev Finkelstein et al., *Placing Search in Context: The Concept Revisited*, ACM Transactions on Info. Sys., Vol. 20, No. 1, 116-131 (Jan. 2002) ("**Finkelstein**")
1029	U.S. Patent No. 6,952,805 to Tafoya et al. ("**Tafoya**")
1030	U.S. Patent No. 6,009,459 to Belfiore et al. ("**Belfiore**")
1031	U.S. Patent No. 5,220,625 to Hatakeyama et al. ("**Hatakeyama**")
1032	U.S. Patent No. 6,185,551 to Birrell et al. ("**Birrell**")
1033	U.S. Patent No. 6,839,702 to Patel et al. ("**Patel**")
1034	U.S. Patent No. 6,973,450 to Silverbrook et al. ("**Silverbrook**")
1035	U.S. Patent No. 6,834,276 to Jensen et al. ("**Jensen**")
1036	U.S. Patent No. 5,946,678 to Ijsbrand Jan Aalbersberg ("**Aalbersberg**")
1037	European Patent Application Publication No. EP 1 209 866 to Baldonado et al. ("**Baldonado**")
1038	Declaration of Delainey Tanner, dated November 18, 2024
1039	Kaitlin Duck Sherwood, *Overcome Email Overload With Eudora 5*, World Wide Webfoot Press (excerpts) (1st ed.) (2001)
1040	Claims Listing
1041	Donald E. Knuth, *The Art Of Computer Programming Vol. 3 Sorting And Searching*, Addison Wesley Longman (excerpts) (2nd ed.) (May 1998)
1042	United States District Courts Judicial Caseload Profile (excerpt)
1043	Steven Schwartz & Robert Correll, *Running Microsoft Office 2001 for Mac*, Microsoft Press (excerpts) (2001)
1044	Ben Shneiderman et al., *Clarifying Search: A User-Interface Framework For Text Searches*, D-Lib Mag. (Jan. 1997)
1045	N/A

No.	Description
1046	N/A
1047	N/A
1048	N/A
1049	N/A
1050	N/A
1051	N/A
1052	Ben Shneiderman, *Designing The User Interface: Strategies For Effective Human-Computer Interaction*, Addison Wesley Longman (excerpts) (3rd ed.) (1998)
1053	Claudine Badue et al., *Distributed Query Processing Using Partitioned Inverted Files*, Proc. Eighth Symp. on String Processing and Info. Retrieval, IEEE, 10-20 (2001)
1054	U.S. Patent No. 5,685,003 to Peltonen et al. ("**Peltonen**")
1055	Dick Pountain, *The New Penguin Dictionary of Computing*, Penguin Group (excerpts) (1st ed.) (2001)
1056	N/A
1057	Alfred & Emily Glossbrenner, *Search Engines For The World Wide Web*, PeachPit Press (3rd ed.) (2001)
1058	N/A
1059	Adam A. Wilcox, *PC Learning Labs Teaches Lotus Notes 3.0*, Ziff-Davis Press (1993)
1060	Declaration of Dr. Sylvia Hall-Ellis Dated December 16, 2024
1061	Stephen Londergan & Pat Freeland, *Lotus Notes R5 For Dummies Quick Reference*, IDG Books Worldwide, Inc. (1999)
1062	Declaration of Dr. Ingrid Hsieh-Yee Dated December 16, 2024

No.	Description
1063	Exhibit CX-0196 to Complainant's Pre-Trial Brief in the Matter of *Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof*, ITC-337-TA-1389 (August 29, 2024)
1064	Exhibit CX-0198 to Complainant's Pre-Trial Brief in the Matter of *Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof*, ITC-337-TA-1389 (August 29, 2024)
1065	Exhibit CX-0199 to Complainant's Pre-Trial Brief in the Matter of Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof, ITC-337-TA-1389 (August 29, 2024)
1066	Exhibit CX-0203 to Complainant's Pre-Trial Brief in the Matter of *Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof*, ITC-337-TA-1389 (August 29, 2024)
1067	Exhibit CX-0204 to Complainant's Pre-Trial Brief in the Matter of Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof, ITC-337-TA-1389 (August 29, 2024)
1068	Exhibit CX-0206 to Complainant's Pre-Trial Brief in the Matter of Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof, ITC-337-TA-1389 (August 29, 2024)
1069	Exhibit CX-0208 to Complainant's Pre-Trial Brief in the Matter of Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof, ITC-337-TA-1389 (August 29, 2024)
1070	Exhibit CX-0209 to Complainant's Pre-Trial Brief in the Matter of Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof, ITC-337-TA-1389 (August 29, 2024)
1071	Exhibit CX-0211 to Complainant's Pre-Trial Brief in the Matter of Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof, ITC-337-TA-1389 (August 29, 2024)
1072	Exhibit CX-0213 to Complainant's Pre-Trial Brief in the Matter of Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof, ITC-337-TA-1389 (August 29, 2024)

No.	Description
1073	Exhibit CX-0214 to Complainant's Pre-Trial Brief in the Matter of Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof, ITC-337-TA-1389 (August 29, 2024)
1074	Exhibit CX-0215 to Complainant's Pre-Trial Brief in the Matter of *Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof*, ITC-337-TA-1389 (August 29, 2024)
1075	U.S. Patent No. 9,663,139 to Gross et al. ("**'139 patent**")
1076	File History of U.S. Patent No. 9,663,139
1077	U.S. Patent No. 10,552,490 to Gross et al. ("**'490 patent**")
1078	File History of U.S. Patent No. 10,552,490
1079	Transcript, Evidentiary Hearing (Vol. IV) in the Matter of Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof, ITC-337-TA-1389 (excerpts) (October 9, 2024)
1080	N/A
1081	First Amended Complaint in *X1 Discovery, Inc. v. Microsoft Corporation* 8:23-cv-02415-GW-JDE (C.D. Cal), ECF No. 61 (May 9, 2025)
1082	Scheduling Order in *X1 Discovery, Inc. v. Microsoft Corporation* 8:23-cv-02415-GW-JDE (C.D. Cal), ECF No. 62 (May 15, 2025)
1083	*C.D. Cal. Time to Milestones*, Docket Navigator (last visited May 15, 2025)
1084	*Judge George H. Wu Time to Milestones*, Docket Navigator (last visited May 15, 2025)
1085	Initial Determination Granting Summary Determination of Non-infringement, *Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof*, 337-TA-1389, Order No. 18 (Sep. 3, 2024)
1086	Declaration of Arie Pellikaan, dated May 20, 2025

Settled expectations disfavor denial because Patent Owner ("PO") waited *over 15 years* from the 2007 release of the accused Windows Search feature before alleging it infringed the '035 patent in December 2023. *Compare* EX1093, 106-107 (describing search-as-you-type); EX1089, 2-3 (same); EX1092 (same); EX1091; *with* EX1090, ¶¶ 17, 52; EX1081, ¶¶ 17, 52. And PO waited *over eight years* from the release of the accused Windows 10 OS that allegedly includes this feature. *E.g.*, EX1087 (July 2015 release); EX1088 (same). PO surely knew of these accused features, as it purportedly developed software to run on Microsoft Windows 7, 8, and 10. *E.g.*, EX1094 (X1 Search requires Windows 7, 8, or 10); EX1090, ¶ 14 (Complaint alleging X1 Search searched Microsoft OneDrive and SharePoint). Thus, even if Microsoft were deemed "aware of" the '035 patent due to citations during prosecution of Microsoft patents, PO's inaction created the impression that Microsoft did not infringe the '035 patent. Thus, the settled expectation was that the '035 patent is not a concern to Microsoft.

Moreover, nothing suggests Microsoft should have paid particular attention to the '035 patent. Unlike iRhythm (*see* IPR2025-00363, Paper 10), Microsoft is a publicly traded company with diverse product offerings and there is no evidence that Microsoft competed with PO or monitored PO's patent filings (or had reason to do so). It would be impractical, unfeasible, and a waste of party and Board resources for companies like Microsoft to track and seek IPR of every IDS-listed patent.

Respectfully submitted,

Dated: June 18, 2025

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CERTIFICATE OF SERVICE
IN COMPLIANCE WITH 37 C.F.R. § 42.6(e)(4)

The undersigned certifies that on June 18, 2025, a complete copy of **PETITIONER'S SUR-REPLY IN SUPPORT OF ITS OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL and EXHIBITS 1087-1094** were served on counsel for the Patent Owner via electronic mail as follows:

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