

1 Simon Franzini (Cal. Bar No. 287631)
2 simon@dovel.com
3 Gregory S. Dovel (Cal. Bar No. 135387)
4 greg@dovel.com
5 DOVEL & LUNER, LLP
6 201 Santa Monica Blvd., Suite 600
7 Santa Monica, California 90401
8 Telephone: (310) 656-7066
9 Facsimile: (310) 656-7069

10 *Attorneys for Plaintiff SpeakWare, Inc.*

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 SPEAKWARE, INC.,
14 a California corporation,
15
16 Plaintiff,
17
18 v.
19
20 MICROSOFT CORPORATION,
21 a Washington corporation,
22
23 Defendant.

Case No. 8:18-CV-01293
Patent Infringement Complaint
Demand for Jury Trial

24
25
26
27
28
Complaint for Patent Infringement

1 Plaintiff SpeakWare, Inc. (“SpeakWare”) files this complaint against Defendant
2 Microsoft Corporation (“Microsoft”), alleging direct and indirect infringement of U.S.
3 Patent 6,397,186. The accused products are Microsoft’s voice-activated systems for
4 controlling appliances.

5 **Plaintiff SpeakWare and the asserted patent.**

6 1. Plaintiff SpeakWare, Inc. is a corporation organized and existing under
7 the laws of the State of California. SpeakWare is managed by lead inventor of U.S.
8 Patent 6,397,186, William Stuart Bush.

9 2. SpeakWare is the owner of U.S. Patent 6,397,186, entitled “Hands-Free,
10 Voice-Operated Remote Control Transmitter,” which issued on May 28, 2002. The
11 ’186 patent is well-known in the industry and has been cited in 163 issued patents.
12 Defendant Microsoft Corporation has known of or been willfully blind to the existence
13 of the ’186 patent since at least May 27, 2011. A copy of the ’186 patent is attached as
14 Exhibit 1.

15 **Defendant Microsoft and the accused products.**

16 3. Defendant Microsoft Corporation is a Washington corporation with
17 business offices in California, including in this district.

18 4. Microsoft has developed, manufactured, imported, offered for sale, sold,
19 and used voice-activated systems for controlling appliances that infringe the ’186
20 patent. These systems include computing devices operating Microsoft Windows 10
21 and Harman Kardon Invoke smart speakers, all of which use Microsoft’s voice-
22 activated virtual assistant, Cortana, to control appliances. These systems can also
23 include associated servers owned or controlled by Microsoft that enable and work in
24 connection with the accused devices to control appliances.

25 **Nature of the action, jurisdiction and venue.**

26 5. Plaintiff SpeakWare, Inc. asserts claims for patent infringement against
27 Defendant Microsoft Corporation under the patent laws of the United States, including
28

1 35 U.S.C. §§ 271 and 281, *et seq.* The Court has original jurisdiction over
2 SpeakWare’s patent infringement claims under 28 U.S.C. §§ 1331 and 1338(a).

3 6. The Court has personal jurisdiction over Microsoft. Microsoft has
4 committed acts of infringement in this district, including selling infringing systems in
5 this district and using infringing systems in this district.

6 7. Venue is proper in this district under 28 U.S.C. §1400(b). Microsoft has
7 committed acts of infringement in this district and has several established places of
8 business in this district. These include numerous Microsoft Store retail locations,
9 including at Brea Mall, 1065 Brea Mall, Brea, California 92821-5718; Westfield
10 Topanga, 6600 Topanga Canyon Blvd., Canoga Park, California 91303; Los Cerritos
11 Center, 331 Los Cerritos Center, Cerritos, California 90703-5424; South Coast Plaza,
12 3333 Bristol Street, Suite 1249, Costa Mesa, California 92626-1803; Glendale
13 Galleria, 2140 Glendale Galleria, JCPenney Court, Glendale, California 91210-2101;
14 Westfield Century City, 10250 Santa Monica Blvd., Los Angeles, California 90067-
15 6609; and The Shops at Mission Viejo, 578 The Shops at Mission Viejo, Mission
16 Viejo, California 92691-6512.

17
18
19
20
21
22

California
* Brea, Brea Mall
Canoga Park, Westfield Topanga
Cerritos, Los Cerritos Center
Corte Madera, The Village at Corte Madera
Costa Mesa, South Coast Plaza
* Glendale, Glendale Galleria
Los Angeles, Westfield Century City
Mission Viejo, The Shops at Mission Viejo
Palo Alto, Stanford Shopping Center
San Diego, Fashion Valley
San Francisco, Westfield San Francisco Centre
Santa Clara, Westfield Valley Fair

23 <https://www.microsoft.com/en-us/store/locations/all-locations>.

24 8. In addition, they include Microsoft offices, for example Microsoft’s
25 offices at 13031 W. Jefferson Blvd., Ste. 200, Playa Vista, California 90094.

26 9. These locations are regular and established places of business of
27 Microsoft for purposes of §1400(b) because each (i) is a physical place in the Central
28 District of California (each consisting of a building or a part of a building from which

1 business is conducted); (ii) operates the business of Microsoft in a regular, steady,
2 uniform, orderly, settled, fixed, and permanent manner; and (iii) is owned or leased by
3 Microsoft, and has been ratified by Microsoft as a place of business. Moreover, these
4 locations are represented by Microsoft as its places of business in the district and are
5 listed and advertised by Microsoft on its website.

6 **Claim for patent infringement.**

7 10. SpeakWare incorporates by reference each of the allegations in
8 paragraphs 1-9 above and further alleges as follows:

9 11. On May 28, 2002, the United States Patent and Trademark Office issued
10 U.S. Patent 6,397,186, entitled “Hands-Free, Voice-Operated Remote Control
11 Transmitter.” Ex. 1.

12 12. SpeakWare is the owner of the ’186 patent with full rights to pursue
13 recovery of royalties for damages for infringement, including full rights to recover past
14 and future damages.

15 Validity of the ’186 patent.

16 13. Each claim of the ’186 patent is valid and enforceable.

17 Patent eligibility of the ’186 patent.

18 14. Each claim of the ’186 patent is patent eligible.

19 15. Each claim is directed to a specific improvement in technology, and not
20 an abstract idea.

21 16. The claims improve technology for remotely controlling electronic
22 appliances. Indeed, the specification explains that the patent involves technology “for
23 remotely controlling electronic equipment” and, more specifically, a “voice-activated
24 and voice-operated remote control system for controlling appliances.” ’186 patent,
25 1:6-9.

26 17. The claims of the ’186 patent are directed to a specific improvement in
27 voice-activated remote control technology.

28

1 18. Indeed, the claims are directed to improving existing technological
2 solutions for remotely controlling electronic appliances.

3 19. The patent is entitled “hands-free, voice-operated remote control
4 transmitter” and generally “relates to devices for remotely controlling electronic
5 equipment, and more particularly, to a wireless, user-programmable, voice activated
6 and voice operated remote control system for controlling appliances.” ’186 patent,
7 1:6-9.

8 20. The specification describes the conventional way of remotely controlling
9 electronic appliances:

10 “Historically, appliances, for example, electronic appliances, such as,
11 televisions, VCRs, digital satellite systems, audio systems, and related
12 accessories, have been remotely controlled by hand-held transmitters used to
13 generate signals to receivers incorporated into the electronics of the remotely
14 controlled appliances. Signals for such appliances correspond to control
15 commands, such as channel selection/tuning, power on/off, audio volume
16 adjustment, and muting controls, typically generated by the user by depressing
17 buttons on a remote control transmitter keypad. The basic composition and
18 operation of such remote control systems are well known in the art.”

19 ’186 patent, 1:11-22.

20 21. The specification also explains that these conventional systems had
21 numerous drawbacks. For example:

22 “[T]he small size and mobility [of such systems] often contribute to
23 misplacement or loss of the transmitter. Also, for device operators with
24 restricted physical mobility or sight limitations, hand-held remote controls may
25 not provide sufficient access to the command controls of the remotely controlled
26 appliances. Also, if an operator’s hands are engaged in an activity, an
27 interruption in the activity may be required to operate the hand-held remote
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.