

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LUCENT TECHNOLOGIES, INC., and
MULTIMEDIA PATENT TRUST,

Plaintiff and Counterclaim-defendants,

vs.

MICROSOFT CORPORATION,

Intervener and Counter-claimant,

MICROSOFT CORPORATION,

Plaintiff and Counter-defendant,

vs.

LUCENT TECHNOLOGIES, INC., and
MULTIMEDIA PATENT TRUST,

Defendants and Counter-claimants,

LUCENT TECHNOLOGIES, INC. and
MULTIMEDIA PATENT TRUST,

Plaintiffs and Counterclaim-defendants,

vs.

DELL, INC.

Defendant,

DELL, INC.,

Counter-claimant and Defendant,

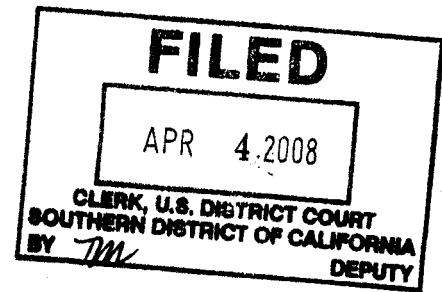
vs.

LUCENT TECHNOLOGIES, INC.

Counter-defendant and Plaintiff.

CASE NO. 07-CV-2000 H (CAB)
consisting of matters severed from
consolidated cases:
Case No. 02-CV-2060 B (CAB)
Case No. 03-CV-0669 B (CAB)
Case No. 03-CV-1108 B (CAB)

SPECIAL VERDICT



INFRINGEMENT OF THE PATENTS

Haskell '226 Patent (U.S. Patent No. 4,958,226)

1a. Do you find by a preponderance of the evidence that Microsoft has indirectly and/or directly infringed claim 12 of the Haskell '226 patent? (a "YES" answer is a finding for Multimedia Patent Trust; a "NO" answer is a finding for Microsoft):

YES _____ NO

1b. If you answered "YES" to Question 1a, please indicate whether you found infringement with respect to each of the following products. (Place a check mark in the appropriate box for each product; a "YES" answer is a finding for Multimedia Patent Trust; a "NO" answer is a finding for Microsoft):

	YES	NO
Windows operating systems with MPEG-1 decoder		<input checked="" type="checkbox"/>
Windows Vista operating systems with WMV-9 (VC-1) decoder		<input checked="" type="checkbox"/>
Windows Media Player (versions 9, 10, and 11) with WMV-9 (VC-1) decoders		<input checked="" type="checkbox"/>
Xbox 360 with MPEG-2 decoder		<input checked="" type="checkbox"/>
Xbox 360 with WMV-9 (VC-1) decoder		<input checked="" type="checkbox"/>
Downloads of Microsoft Windows Media Player (versions 9, 10 and 11) with WMV-9 (VC-1) decoders		<input checked="" type="checkbox"/>

Fleming '759 Patent (U.S. Patent No. 4,439,759)

2a. Do you find by a preponderance of the evidence that Dell has directly and/or indirectly infringed claim 1 of the Fleming '759 patent? (a "YES" answer is a finding for Lucent; a "NO" answer is a finding for Dell):

YES _____ NO

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2b. If you answered "YES" to Question 2a, please indicate whether you found infringement with respect to the following products. (Place a check mark in the appropriate box; a "YES" answer is a finding for Lucent; a "NO" answer is a finding for Dell):

	YES	NO
Computer systems sold by Dell between October 20, 1998 and May 19, 2001 that included a version of the Windows operating system		✓

Day '356 Patent (U.S. Patent No. 4,763,356)

3a. Do you find by a preponderance of the evidence that Microsoft and/or Dell has indirectly infringed Claim 19 or 21 of the Day '356 patent? (A "YES" answer is a finding for Lucent; a "NO" answer is a finding for Microsoft and Dell):

YES NO

3b. If you answered "YES" to Question 3a, then for each of the following products, do you find that Dell and/or Microsoft has indirectly infringed claim 19 of the Day '356 patent? (Place a check mark in the appropriate box for each product and Defendant; a "YES" answer is a finding for Lucent; a "NO" answer is a finding for Dell or Microsoft):

	Microsoft		Dell	
	YES	NO	YES	NO
Microsoft Money (versions 2000 through 2006)	✓			✓
Microsoft Outlook (versions 2000, 2002, and 2003)	✓			✓
Windows Mobile (versions Pocket PC 2000, 2002, and 2003, Windows Mobile 2003, and Windows Mobile 5)	✓			✓
Quicken (versions 2000 through 2006)				✓

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3c. If you answered "YES" to Question 3b with respect to Windows Mobile, then for the following products, do you find that Dell and/or Microsoft has indirectly infringed claim 21 of the Day '356 patent? (Place a check mark in the appropriate box for each Defendant; a "YES" answer is a finding for Lucent; a "NO" answer is a finding for Dell or Microsoft):

	Microsoft		Dell	
	YES	NO	YES	NO
Windows Mobile (versions Pocket PC 2000, 2002, and 2003, Windows Mobile 2003, and Windows Mobile 5)	✓			✓

Agulnick '295 Patent (U.S. Patent No. 5,347,295)

4a. Do you find by a preponderance of the evidence that Dell has directly and/or indirectly infringed claim 1 of the Agulnick '295 patent and/or that Microsoft has indirectly infringed claim 1 of the Agulnick '295 patent? (a "YES" answer is a finding for Lucent; a "NO" answer is a finding for Dell and/or Microsoft):

YES ✓ NO

4b. If you answered "YES" to Question 4a, please indicate whether you found infringement with respect to the following products for each Defendant. (Place a check mark in the appropriate box for each Defendant; a "YES" answer is a finding for Lucent; a "NO" answer is a finding for Dell and/or Microsoft):

	Microsoft		Dell	
	YES	NO	YES	NO
Tablet PC Computers installed with Windows XP Tablet PC Edition Operating System	✓		✓	

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VALIDITY OF THE PATENTS

Anticipation

5. Has Microsoft and/or Dell proven by clear and convincing evidence that any asserted claim of the patents is invalid because it is anticipated by a single prior art reference? (Place a check mark in the appropriate space; a "YES" answer is a finding for Microsoft and/or Dell; a "NO" answer is a finding for Multimedia Patent Trust and/or Lucent):

	YES	NO
Claim 12 of the Haskell '226 patent (U.S. Patent No. 4,958,226)		✓
Claim 1 of the Fleming '759 patent (U.S. Patent No. 4,439,759)		✓
Claim 19 of the Day '356 patent (U.S. Patent No. 4,763,356)		✓
Claim 21 of the Day '356 patent (U.S. Patent No. 4,763,356)		✓
Claim 1 of the Agulnick '295 patent (U.S. Patent No. 5,347,295)		✓

Obviousness

6. Has Microsoft and/or Dell proven by clear and convincing evidence that any asserted claim of the patents is invalid because, at the time of the invention, it would have been obvious to a person of ordinary skill in the art? (Place a check mark in the appropriate space; a "YES" answer is a finding for Microsoft and/or Dell; a "NO" answer is a finding for Multimedia Patent Trust and/or Lucent):

	YES	NO
Claim 12 of the Haskell '226 patent (U.S. Patent No. 4,958,226)	✓	
Claim 1 of the Fleming '759 patent (U.S. Patent No. 4,439,759)		✓
Claim 19 of the Day '356 patent (U.S. Patent No. 4,763,356)		✓
Claim 21 of the Day '356 patent (U.S. Patent No. 4,763,356)		✓
Claim 1 of the Agulnick '295 patent (U.S. patent No. 5,347,295)		✓

1 **DAMAGES**

2 Answer the following questions for each patent for which you have found at least one claim
3 to be infringed and valid.

4 **Haskell '226 Patent (U.S. Patent No. 4,958,226)**

5 7a. What is the total reasonable royalty, if any, that Multimedia Patent Trust has shown by
6 a preponderance of the evidence for Microsoft's infringement of the Haskell'226 patent?

7 Total damages: \$ 0

8 7b. Did you include any amount for downloads of Microsoft Windows Media Player
9 (versions 9,10 and 11) with WMV-9 (VC-1) decoders, and, if so, what amount:

10 \$ 0

11 7c. If you used a royalty rate to calculate the total damages, what is the royalty rate used?

12 Royalty Rate 0 (per-unit rate in dollars and/or cents,
13 or a percentage)

14 **Fleming '759 Patent (U.S. Patent No. 4,439,759)**

15 8. Has Lucent proved by a preponderance of the evidence that it provided Dell with pre-
16 suit notice of its infringement of the Fleming '759 patent?

17 YES _____ NO

18 9a. What is the total reasonable royalty, if any, that Lucent has shown by a preponderance
19 of the evidence for Dell's infringement of the Fleming '759 patent?

20 Total Damages \$ 0

21 9b. If you used a royalty rate to calculate the total damages, what is the royalty rate used?

22 Royalty Rate 0 (per-unit rate in dollars and/or cents,
23 or a percentage)

24 **Day '356 Patent (U.S. Patent No. 4,763,356)**

25 10. Has Lucent proved by a preponderance of the evidence that it provided Dell with pre-
26 suit notice of its infringement of the Day '356 patent?

27 YES NO _____

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11a. For each category of sales of Microsoft Money, Microsoft Outlook, and Windows Mobile listed below, what is the total reasonable royalty, (running royalty **OR** lump sum) if any, that Lucent has shown by a preponderance of the evidence for Microsoft's and/or Dell's infringement of the Day '356 patent?

(If running royalty)

i. Microsoft Money and computers pre-installed with Microsoft Money

Total damages for sales by Dell to its customers before Microsoft was on notice of the Day '356 patent:

\$ 0 N/A

Total damages for sales by Dell after Microsoft was on notice of the Day '356 patent:

\$ 0 N/A

Total damages for sales by Microsoft to customers other than Dell:

\$ 0 N/A

(If running royalty)

ii. Microsoft Outlook and computers pre-installed with Microsoft Outlook

Total damages for sales by Dell to its customers before Microsoft was on notice of the Day '356 patent:

\$ N/A

Total damages for sales by Dell after Microsoft was on notice of the Day '356 patent:

\$ N/A

Total damages for sales by Microsoft to customers other than Dell:

\$ N/A

(If running royalty)

iii. Microsoft Windows Mobile/Pocket PC and computer devices pre-installed with Windows Mobile/Pocket PC

Total damages for sales by Dell to its customers before Microsoft was on notice of the Day '356 patent:

\$ N/A

Total damages for sales by Dell after Microsoft was on notice of the Day '356 patent:

\$ N/A

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Total damages for sales by Microsoft to customers other than Dell:

\$ N/A

(If lump sum royalty)

iv. If you award a lump sum royalty for the '356 patent, what is the total reasonable royalty, if any, that Lucent has shown by a preponderance of the evidence for Microsoft's and/or Dell's infringement of the Day '356 patent?

a. Microsoft

Total Damages \$ 357,693,056.18

b. Dell

Total Damages \$ 0 N/A

11b. If you used a royalty rate to calculate the total damages for the products listed below, what is the royalty rate used:

i. Microsoft Money and computers pre-installed with Microsoft Money

Royalty Rate N/A (per-unit rate in dollars and/or cents, or a percentage)

ii. Microsoft Outlook and computers pre-installed with Microsoft Outlook

Royalty Rate N/A (per-unit rate in dollars and/or cents, or a percentage)

iii. Microsoft Windows Mobile/Pocket PC and computer devices pre-installed with Windows Mobile/Pocket PC

Royalty Rate N/A (per-unit rate in dollars and/or cents, or a percentage)

12a. For sales of Quicken and computers pre-installed with Quicken, what is the total reasonable royalty, if any, that Lucent has shown by a preponderance of the evidence for Dell's infringement of the Day '356 patent?

Total Damages \$ N/A

12b. If you used a royalty rate to calculate the total damages, what is the royalty rate used?

Royalty Rate N/A (per-unit rate in dollars and/or cents, or a percentage)

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Agulnick '295 Patent (U.S. Patent No. 5,347,295)

13a. For sales of Windows XP Tablet PC Edition and Tablet PCs installed with Windows XP Tablet PC Edition, what is the total reasonable royalty, if any, that Lucent has shown by a preponderance of the evidence for Microsoft's and/or Dell's infringement of the Agulnick '295 patent?

Total damages for sales by Dell:

\$ 51,000

Total damages for sales by Microsoft to customers other than Dell:

\$ 10,350,000

13b. If you used a royalty rate to calculate the total damages, what is the royalty rate used?

Royalty Rate N/A (per-unit rate in dollars and/or cents, or a percentage)

ADDITIONAL PATENT-RELATED DEFENSES

Unenforceability

14. For the following patents, has Microsoft and/or Dell proven by clear and convincing evidence that the applicant for the patent committed inequitable conduct during prosecution of the patent at the Patent and Trademark Office? (Place a check mark in the appropriate space; a "YES" answer is a finding for Microsoft and/or Dell; a "NO" answer is a finding for Multimedia Patent Trust or Lucent):

Haskell '226 patent (U.S. Patent No. 4,958,226) YES _____ NO

Fleming '759 patent (U.S. Patent No. 4,439,759) YES _____ NO

Laches

15. For the Haskell '226 patent, has Microsoft proven by a preponderance of the evidence that Multimedia Patent Trust is barred by laches from obtaining pre-suit damages from Microsoft? (Place a check mark in the appropriate space; a "YES" answer is a finding for Microsoft; a "NO" answer is a finding for Multimedia Patent Trust):

YES NO _____

16. For the Fleming '759 patent, has Dell proven by a preponderance of the evidence that Lucent is barred by laches from obtaining pre-suit damages from Dell? (Place a check mark in the appropriate space; a "YES" answer is a finding for Dell; a "NO" answer is a finding for Lucent):

YES _____ NO

1 **COUNTERCLAIMS FOR TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC**
2 **ADVANTAGE**

3 17. Has Microsoft proven by a preponderance of the evidence that Lucent tortiously
4 interfered with Microsoft's prospective economic advantage? (Place a check mark in the appropriate
5 space; a "YES" answer is a finding for Microsoft; a "NO" answer is a finding for Lucent):

6 YES _____ NO

7 18. What amount of damages, if any, did Microsoft suffer as a result of the tortious
8 interference?

9 \$ 0 N/A

10 19. Has Dell proven by a preponderance of the evidence that Lucent tortiously interfered
11 with Dell's prospective economic advantage? (Place a check mark in the appropriate space; a "YES"
12 answer is a finding for Dell; a "NO" answer is a finding for Lucent):

13 YES _____ NO

14 20. What amount of damages, if any, did Dell suffer as a result of the tortious interference?

15 \$ 0 N/A

16 21. Does Dell's claim for tortious interference with prospective economic advantage against
17 Lucent directly or indirectly damage Multimedia Patent Trust in violation of the settlement agreement
18 between Dell and Multimedia Patent Trust?

19 YES NO _____

20 **THE FOREPERSON SHOULD SIGN AND DATE BELOW TO INDICATE THAT THE JURY**
21 **HAS REACHED A UNANIMOUS VERDICT ON THESE QUESTIONS.**

22 Date: 4/4/08

23 CWB
24 JURY FOREPERSON