

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ST. CLAIR INTELLECTUAL	:	
PROPERTY CONSULTANTS, INC.,	:	
	:	
Plaintiff,	:	
	:	Civil Action No. 09-354-LPS
v.	:	(CONSOLIDATED)
	:	
ACER, INC., et al.,	:	
	:	
Defendants.	:	

MICROSOFT CORPORATION,	:	
	:	
Plaintiff,	:	

v.	:	Civil Action No. 10-282-LPS
----	---	-----------------------------

ST. CLAIR INTELLECTUAL	:	
PROPERTY CONSULTANTS, INC.,	:	
	:	
Defendant.	:	

MEMORANDUM ORDER

Pending before the Court are numerous motions in these consolidated cases. The Court heard oral argument on many motions on March 27, 2013 and has today issued rulings on several of the motions. The Court will proceed with respect to the remaining pending motions as follows:

1. With respect to Defendants' Motion for Summary Judgment that the [Fung] Patents are Invalid for Inadequate Written Description (D.I. 653), which was argued at the hearing, the Court is reserving judgment and needs no further written submissions.

2. With respect to Defendants' Motion for Spoliation Sanctions Against Plaintiff

(D.I. 641), which was argued at the hearing, the Court requires additional briefing. Specifically, the parties shall provide briefing on the applicability, if any, of the analysis in *Bozic v. City of Washington, Pa.*, 2012 WL 6050610 (W.D. Pa. Dec. 5, 2012), which was first mentioned at the hearing. Defendants' brief, not to exceed five pages, is due on April 5; Plaintiff's answering brief, not to exceed five pages, is due on April 12; and Defendants' reply brief, not to exceed two pages, is due on April 16, 2013.

3. With respect to Defendants' Motion for Summary Judgment of Noninfringement of U.S. Patent Nos. 5,710,929 and 5,758,175 (D.I. 692), which was argued at the hearing, the Court requires additional briefing. Specifically, the parties shall provide supplemental briefing on the proper construction of the claim term "I/O device" and address whether this motion presents an issue of law or a question of fact. Defendants' brief, not to exceed ten pages, is due on April 5; Plaintiff's answering brief, not to exceed ten pages, is due on April 12; and Defendants' reply brief, not to exceed four pages, is due on April 16, 2013.

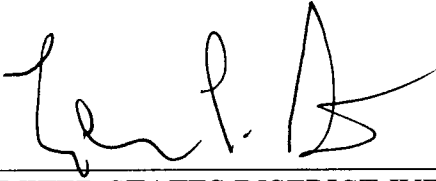
4. The following motions were not argued at the hearing and remain pending:
- a. Defendants' Motion for Summary Judgment of Non-Infringement of U.S. Patent Nos. 5,630,163 and 5,613,130 (D.I. 631),
 - b. Toshiba's Motion for Summary Judgment on Willful Infringement (D.I. 633),
 - c. St. Clair's Motion for Summary Judgment that the Alleged "Dell 316LT" is Not Prior Art Against the Asserted Claims of the Fung Patents, Other than Claim 20 of the '175 Patent and Claim 11 of the '929 Patent (D.I. 643),

- d. Intel's Motion for Summary Judgment of No Contributory Infringement or Willfulness Liability Under the [Fung] Patents (D.I. 676),
- e. Defendants' Motion for Summary Judgment of No Infringement and Invalidity of '617 Patent (D.I. 685),
- f. Defendants' Motion for Summary Judgment of Noninfringement of U.S. Patent Nos. 5,892,959 and 6,079,025 (D.I. 688),
- g. Defendants' Motion for Summary Judgment that Claim 2 of the '959 Patent is Invalid for Indefiniteness Under Section 112(2) (D.I. 690),
- h. Defendants' Motion for Summary Judgment of Noninfringement of the Asserted Claims of the [Fung] Patents (D.I. 694),
- i. Defendants' Motion for Summary Judgment that the Asserted Claims of the '959 and '025 patents are Invalid Under Section 112 (D.I. 698),
- j. St. Clair's Motion for Summary Judgment that the Alleged "Intel 386 SL Superset" is Not Prior Art Against the Asserted Claims of the Fung Patents (D.I. 654) and Defendants' Cross Motion for Summary Judgment (D.I. 757),
- k. Microsoft's Motion for Summary Judgment that it is Not Liable for Willful or Contributory Infringement (D.I. 328, C.A. No. 10-282),
- l. Defendants' Motion to Strike Portions of the Declarations of Ted Drake and William Mangione-Smith and St. Clair's Untimely Infringement Contentions (D.I. 465, C.A. No. 10-282), and
- m. St. Clair's Motion for Summary Judgment of Dismissal of the Lack of

Standing Defense by Plaintiff Microsoft Corporation (D.I. 467, C.A. No.
10-282).

The Court intends to schedule another hearing at which the parties will provide oral argument on each of these pending motions.

March 29, 2013
Wilmington, Delaware


UNITED STATES DISTRICT JUDGE