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Attorneys for Plaintiff Research Corporation Technologies, Inc.

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

RESEARCH CORPORATION  
TECHNOLOGIES, INC.,  
  
Plaintiff,  
  
vs.  
  
MICROSOFT CORPORATION,  
  
Defendant.

No. CV-01-658-TUC-RCJ

**STIPULATION OF DISMISSAL  
PURSUANT TO FRCP 41(a)(1)(A)(ii)**

1  
2  
3 Plaintiff Research Corporation Technologies, Inc. ("RCT") and Defendant Microsoft  
4 Corporation ("Microsoft") hereby stipulate as follows pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii)  
5 under which the plaintiff may dismiss an action without court order by filing a stipulation of  
6 dismissal signed by all parties who have appeared:  
7

8 1. The parties understand that the Court ruled from the bench during the August 31,  
9 2009 hearing ("August 31, 2009 Ruling") that Claim 29 of U.S. Patent No. 5,477,305 ("the '305  
10 patent") is not entitled to an effective filing date prior to its November 22, 1994 actual filing date.  
11 (Aug. 31, 2009 Tr. at 402).  
12

13 2. On July 29, 2005 the parties entered into a Stipulation Re Source Code Dates and  
14 Invalidity ("July 29, 2005 Stipulation"), stipulating "if the Jury finds that the 1991 application of  
15 Parker and Mitsa does not enable or provide written description support for the subject matter of  
16 '305 Patent Claim 29, then that Claim 29 is invalid as being anticipated and/or obvious under 35  
17 U.S.C. Sec. 102, 103 in light of RCT's 1992 PCT Publication." (Dkt. No. 665).  
18

19 3. The parties agree that in view of the Court's August 31, 2009 Ruling and  
20 the July 29, 2005 Stipulation, Claim 29 of the '305 patent is invalid. RCT reserves all  
21 rights to appeal the August 31, 2009 Ruling and the consequent invalidity determination  
22 regarding Claim 29 of the '305 patent.

23 4. The parties further agree that in view of the Court's July 28, 2009 Order  
24 (Dkt. No. 1124) granting Microsoft's Motion for Partial Summary Judgment of Invalidity  
25 of Some Asserted Patent Claims, no Microsoft product accused of infringement in this  
26 case infringes a valid, asserted claim of U.S. Patent. No. 5,111,310 ("the '310 patent")  
27 and U.S. Patent No. 5,341,228 ("the '228 patent"), *i.e.* Claims 1 and 2 of the '310 patent  
28

1 and Claim 11 of the '228 patent. RCT reserves all rights to appeal the Court's July 28,  
2 2009 Order, Dkt. No. 1124.

3 5. On June 5, 2009 the Court granted Microsoft's Motion for Partial Summary  
4 Judgment that the Asserted Claims of the '772 Patent Are Not Entitled to the Effective Filing  
5 Date of the 1991 or 1990 Applications under 35 U.S.C. §120 ("Priority Date Order," Dkt. No.  
6 992). The Court later denied RCT's Motion for Reconsideration [Dkt. No. 1093] of this Order  
7 (Dkt. No. 1135). RCT reserves all rights to appeal the Court's June 5, 2009 Priority Date Order,  
8 Dkt. No. 992, and the Court's order denying reconsideration, Dkt. No. 1135.  
9

10 6. In view of the June 5, 2009 Priority Date Order, on August 21, 2009, the parties  
11 entered into and filed with the Court a Stipulation Regarding Non-Infringement of Claims 4 and  
12 63 of the '772 Patent, Claims 2 and 6 of the '518 Patent, Claims 1 and 11 of the '941 Patent, and  
13 Claims 42 and 72 of the '305 Patent ("August 21, 2009 Stipulation") (Dkt. No. 1159), stipulating  
14 that no Microsoft product accused of infringement in this case infringes a valid, asserted claim of  
15 U.S. Patent No. 5,726,772 ("the '772 patent"). (Dkt. No. 1159 at ¶1).  
16

17 7. In the August 21, 2009 Stipulation, the parties stipulated that no Microsoft product  
18 accused of infringement in this case infringes any valid, asserted claim of U.S. Patent Nos.  
19 5,708,518 ("the '518 patent"), 5,543,941 ("the '941 patent"), 5,477,305 ("the '305 patent") that  
20 does not recite a "blue noise mask," *i.e.*, claims 2 and 6 of the '518 patent, claims 1 and 11 of the  
21 '941 patent, and claims 42 and 72 of the '305 patent. (Dkt. No. 1159 at ¶1).  
22

23 8. The parties agree that in view of these rulings and stipulations, all claims have  
24 been extinguished and for that reason this action is hereby dismissed. RCT reserves all rights to  
25 appeal this dismissal and all adverse rulings in this case, including but not limited to the Orders  
26 and bench rulings identified herein.  
27

28 9. Microsoft preserves all defenses in this action.

1           10.    The Court issued an Order [Dkt. No. 1150] on August 20, 2009 granting  
2 Microsoft's Motion in Limine to Allow Dr. Ulichney to Testify (#971). RCT agrees not to  
3 appeal, and waives all rights to appeal, this Order. Furthermore, RCT agrees not to enforce any  
4 provision of the RCT-HP Settlement Agreement that would prevent Dr. Robert Ulichney from  
5 appearing live at a future trial on this matter.  
6

7           11.    RCT agrees that in the event a future judgment is obtained against Microsoft on at  
8 least one of the asserted claims of the asserted patents (i.e. the '310 patent, the '228 patent, the  
9 '305 patent, the '941 patent and the '772 patent), RCT will not seek prejudgment interest for the  
10 period after the date of this filing (August 31, 2009).  
11

12           12.    Each side is to bear its own costs and attorney's fees.  
13

14  
15 DATED this August 31st day of August, 2009.

16 MICROSOFT CORPORATION

16 RESEARCH CORPORATION  
17 TECHNOLOGIES, INC.

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18 By:   /s/ John R Fuisz

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**IT IS SO ORDERED.**

**DATED: September 2, 2009**



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**ROBERT C. JONES**  
**UNITED STATES DISTRICT JUDGE**

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**CERTIFICATE OF SERVICE**

I hereby certify a copy of the STIPULATION OF DISMISSAL PURSUANT TO FRCP 41(a)(1)(A)(ii) was served by this 31st day of August, 2009 on the following counsel, via electronic mail, to:

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