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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MICROSOFT CORPORATION,
A Washington Corporation,
One Microsoft Way,
Redmond, WA 98052;

Plaintiffs,

v.

A SUCCESSFUL BUSINESS, INC.,
An Anystate Corporation
123 New Main Street,
Mytown, USA 11111, and

BUSINESS OWNER, an individual.

Defendants.

Civil Action No.:

COMPLAINT

Plaintiff Microsoft Corporation (“Microsoft”), by and through its attorneys, DOE & ASSOCIATES, LLP, file their complaint against A SUCCESSFUL BUSINESS, INC. (“BUSINESS”), an unknown business entity, and BUSINESS OWNER (“B. OWNER”), an individual, (collectively “Defendants”), and state and allege as follows:

SUBJECT MATTER JURISDICTION AND VENUE

1. This case is a civil action arising under the Copyright laws of the United States, 17 U.S.C. §§ 101, *et seq.* This Court has subject matter jurisdiction of this action pursuant to 17 U.S.C. § 501, 28 U.S.C. § 1338(a), and 28 U.S.C. § 1331.

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1400(a).

PARTIES AND PERSONAL JURISDICTION

3. Microsoft is a Washington Corporation with its principal place of business in Redmond, Washington.

4. Defendant BUSINESS, upon information and belief is an Anystate company, having a principal place of business at 123 New Main Street, Mytown, USA. BUSINESS OWNER is an individual and agent of Defendant BUSINESS.

PERSONAL LIABILITY OF BUSINESS OWNER

5. Defendant BUSINESS OWNER, as agent of Defendant BUSINESS, is individually liable for the infringing activities described herein.

6. At all relevant times Defendant BUSINESS OWNER personally participated in and/or had the ability and right to supervise, direct, and control the infringing activities alleged in this Complaint.

7. Defendant BUSINESS OWNER derived direct financial benefits from the infringing activities alleged in this Complaint.

GENERAL ALLEGATIONS

8. Plaintiff is in the business of developing, acquiring, and marketing computer software programs recorded on various media, including among others magnetic diskettes and CD-ROM for use on computers. Plaintiff packages and distributes its Computer Software Products with associated reference manuals, end-user license agreements, and other documentation.

9. Plaintiff has made and continues to make a substantial investment of time, effort, and expense in the design, development, testing, acquisition, manufacturing and marketing of its Computer Software Products.

THE BUSINESS OF MICROSOFT

10. Microsoft is in the business of designing, developing, promoting, advertising, marketing, distributing, testing, manufacturing, and licensing a wide variety of computer

software programs, including operating system software, spreadsheet and word processing software. Microsoft's copyrighted computer software programs include, among others, the following products (hereinafter referred to collectively as the "Microsoft Products"):

- (a) Access;
- (b) Excel;
- (c) Outlook;
- (d) PowerPoint;
- (e) Publisher;
- (f) Windows 2000 Server;
- (g) Windows 2000; and
- (h) Word.

11. The Microsoft Products, their reference manuals, and the other documentation packaged and distributed with the Microsoft Products contain a large amount of material wholly original with Microsoft and are copyrightable subject matter under the laws of the United States.

12. At all times herein relevant, Microsoft complied in all respects with the Copyright Act, 17 U.S.C. §§ 101, *et seq.*, and secured the exclusive rights and privileged in and to the copyrights in the Microsoft Products. Each of the aforementioned works is an original work, copyrightable under the Copyright Act, and each work has been copyrighted in full compliance with the Copyright Act. Microsoft has received Certificates of Registration from the Register of Copyrights for each of the Microsoft Products reflected in the Certificates of Registration for the Microsoft Products copies of which are attached as Exhibit "A."

13. Since the dates of their respective registrations, the Microsoft products and their reference manuals, as well as other documentation referred to above, have been manufactured by Microsoft or under its authority. All copies of said items made by

Microsoft or under its authority have been manufactured in strict conformity with the provisions of the Copyright Act, 17 U.S.C. §§ 101, *et seq.*, including 17 U.S.C. §§ 401-412, and all other applicable laws governing copyrights. Microsoft has thereby fully maintained the validity of its copyrights in these works.

14. Since the creation of the Microsoft Products, their reference manuals, and other accompanying documentation, Microsoft has been and still is the sole proprietor of all rights, titles, and interests in and to the copyrights in the Microsoft Products, the accompanying documentation including the reference manuals, and the Certificates of Registration corresponding therewith.

15. Microsoft has not authorized Defendant to copy, reproduce, manufacture, duplicate, disseminate, or distribute the Microsoft Products, their reference manuals, and/or other accompanying documentation.

THE BUSINESS OF DEFENDANTS

16. Plaintiff is informed and believes and thereon alleges that Defendant is a third party maintenance company for offset printers, which maintains offices in Mytown, Anystate and other locations unknown at this time.

17. Plaintiff is informed and believes and thereon alleges that Defendant, in the conduct of its business, utilizes in excess of one hundred (100) personal computers. Plaintiff is informed and believes and thereon alleges that Defendant has engaged in the unauthorized reproduction and use of the Microsoft Products identified above, on these personal computers and/or network server(s) for the use of Defendants' officers, employees and/or agents in the scope of their employment.

CAUSE OF ACTION **(Copyright Infringement)**

18. Plaintiff realleges and incorporates by reference herein each of the allegations contained in Paragraphs 1 through 17 of this Complaint as though fully set forth.

19. Defendants' acts constitute infringement of Plaintiff's copyrights in the Microsoft Products in violation of the Copyright Act, 17 U.S.C. §§ 101, *et seq.*

20. Plaintiff is informed and believes and thereon alleges that Defendants' reproduction of the Microsoft Products was deliberate, willful, malicious, oppressive, and without regard to Plaintiff's proprietary rights.

21. Defendants' copyright infringement has caused, and will continue to cause, Plaintiff to suffer substantial injuries, loss, and damage to its proprietary and exclusive rights to the copyrights in the Microsoft Products and further, has damaged Plaintiff's business reputations and goodwill, diverted its trade, and caused a loss of profits, all in an amount yet ascertained.

22. Defendants' copyright infringement, and the threat of continuing infringement, has caused, and will continue to cause, Plaintiff repeated and irreparable injury. It would be difficult to ascertain the amount of money damages that would afford Plaintiff adequate relief at law for Defendants' acts and continuing acts, and a multiplicity of judicial proceedings would be required. Plaintiffs' remedy at law is not adequate to compensate them for the injuries already inflicted and further threatened by Defendants. Therefore, Defendants should be restrained and enjoined pursuant to the Copyright Act, 17 U.S.C. §§ 101, *et seq.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray as follows:

23. That the Court issue a Temporary Restraining Order enjoining and restraining Defendant and its respective agents, servants, employees, successors and assigns, and all other persons acting in concert with or in conspiracy with or affiliated with Defendant, from:

(a) Erasing, deleting, altering or destroying infringing copies of software manufactured by Plaintiff that are in the possession of Defendants or installed on Defendants' computers and network server(s); and

(b) Destroying any documents, electronic files or business records that pertain to the copying, reproduction, manufacture, duplication, dissemination, or distribution of any infringing copies of software manufactured by Plaintiff or under Plaintiff's authority.

24. That the court issues a Preliminary Injunction:

(a) in accordance with the order requested in Paragraph 23 above; and

(b) enjoining and restraining Defendants and their respective agents, servants, employees, successors, and assigns, and all other persons acting in concert with or in conspiracy with or affiliated with Defendants from reproducing, copying, manufacturing, duplicating, disseminating, distributing or using any unauthorized copies of software manufactured by Plaintiff or under Plaintiff's authority.

25. That the Court issues a Permanent Injunction making permanent the orders requested in Paragraph 24(b) above.

26. That the Court issue an order requiring Defendant to show cause why, pending Trial on the merits, it should not be preliminarily enjoined from copying, reproducing, manufacturing, duplicating, disseminating, distributing, and using infringing copies of copyrighted software manufactured by Plaintiff or under Plaintiff's authority.

27. That the Court issues an Order permitting accelerated pre-trial discovery within three (3) business days.

28. That Plaintiffs be awarded damages for Defendants' copyright infringement either: (i) actual damages in an amount to be determined at trial, together with Defendants' profits derived from its unlawful infringement in an amount provided by law, as set forth in 17 U.S.C. §504, at Plaintiff's election before the entry of a final judgment, together with prejudgment and post-judgment interest.

29. That the Court issue an order requiring Defendants to file with this Court and serve on Plaintiff within thirty (30) days after service of an injunction a report, in writing,

under oath, setting forth in detail the manner and form in which Defendants have complied with the injunction.

30. That the Court issue an order requiring Defendants to destroy all infringing copies of the Plaintiffs' software products at the conclusion of the present matter.

31. That the Court award Plaintiff its reasonable attorney's fees pursuant to 17 U.S.C. § 505.

32. That the Court award Plaintiff its costs of suit incurred herein.

33. That the Court grant Plaintiff such other and further relief as sit deems just and equitable.

Respectfully Submitted,

DOE AND ASSOCIATES, LLP

By: _____

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DATED: