

1 Robert F. McCauley, State Bar No. 162056  
FINNEGAN, HENDERSON, FARABOW,  
2 GARRETT & DUNNER, L.L.P.  
Stanford Research Park  
3 700 Hansen Way  
Palo Alto, California 94304  
4 Telephone: (650) 849-6600  
Facsimile: (650) 849-6666

5 Christopher P. Isaac (*pro hac vice*)  
6 Patrick J. Coyne (*pro hac vice*)  
Jeffrey A. Berkowitz (*pro hac vice*)  
7 Alan A. Wright (*pro hac vice*)  
FINNEGAN, HENDERSON, FARABOW,  
8 GARRETT & DUNNER, L.L.P.  
Two Freedom Square  
9 11955 Freedom Drive  
Reston, VA 20190  
10 Telephone: (571) 203-2700  
Facsimile: (202) 408-4400

11 Attorneys for Plaintiffs,  
12 TELESUTTLE TECHNOLOGIES, LLC,  
TELESUTTLE CORPORATION, and  
13 BTG INTERNATIONAL INC.

14  
15 IN THE UNITED STATES DISTRICT COURT  
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
17 SAN FRANCISCO DIVISION

18 TELESUTTLE TECHNOLOGIES, LLC,  
19 TELESUTTLE CORPORATION, and  
BTG INTERNATIONAL INC.,

20 Plaintiffs,

21 v.

22  
23 MICROSOFT CORPORATION and  
24 APPLE COMPUTER, INC.,

25 Defendants.

CASE NO. C 04-2928 CRB

**FIRST AMENDED COMPLAINT**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs Teleshuttle Technologies, LLC, Teleshuttle Corporation, and BTG International  
2 Inc., (collectively “BTG”), by their undersigned attorneys, allege in their Complaint against  
3 Defendants Microsoft Corporation (“Microsoft”) and Apple Computer, Inc. (“Apple”) as follows:

4 **NATURE OF THE ACTION**

5 1. This is a civil action for patent infringement arising under the Patent Laws of the  
6 United States, 35 U.S.C. § 100, *et seq.*, and in particular under the provisions of 35 U.S.C. § 271.

7 2. BTG seeks relief from Defendants’ willful violation of BTG’s patent rights under  
8 U.S. Patent No. 6,557,054 as set forth more fully below.

9 3. BTG seeks relief from Defendants’ violation of BTG’s patent rights under U.S. Patent  
10 No. 6,769,009 as set forth more fully below.

11 **JURISDICTION AND VENUE**

12 4. Subject matter jurisdiction is proper under 28 U.S.C. §§ 1331 and 1338(a).

13 5. Upon information and belief, Microsoft has facilities in both San Francisco and  
14 Mountain View, California, regularly conducts business in California, is registered to do business in  
15 California, and has appointed as its registered agent CSC - Lawyers Incorporating Service, 2730  
16 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833.

17 6. Upon information and belief, this Court has personal jurisdiction over Microsoft.

18 7. Upon information and belief, Apple has its corporate headquarters at 1 Infinite Loop,  
19 Cupertino, CA 95014, is registered as a California Corporation, regularly conducts business in  
20 California, and has appointed as its registered agent CT Corporation System, 818 West Seventh  
21 Street, Los Angeles, CA 90017.

22 8. Upon information and belief, this Court has personal jurisdiction over Apple.

23 9. Upon information and belief, venue is proper in this judicial district under 28 U.S.C.  
24 §§ 1391(c) and 1400(b).

25 **THE PARTIES**

26 10. Plaintiff Teleshuttle Technologies, LLC, is a limited liability company organized  
27 under the laws of the State of New York, with its place of business at 20 East 9<sup>th</sup> Street, New York,  
28 New York, 10003.

1 11. Plaintiff Teleshuttle Corporation is a New York corporation, having its place of  
2 business at 20 East 9<sup>th</sup> Street, New York, New York, 10003.

3 12. Plaintiff BTG International Inc. is a Delaware corporation, having its principal place  
4 of business at Five Tower Bridge, 300 Barr Harbor Drive, 7th Floor, West Conshohocken, PA  
5 19428-2998.

6 13. Upon information and belief, Defendant Microsoft Corporation is a Washington  
7 corporation, having its principal place of business at One Microsoft Way, P.O. Box 97017,  
8 Redmond, WA 97017.

9 14. Upon information and belief, Defendant Apple Computer, Inc., is a California  
10 corporation having its principal place of business at 1 Infinite Loop, Cupertino, CA 95014.

11 **FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS FOR RELIEF**

12 15. U.S. Patent No. 6,557,054, (“the ‘054 patent”), entitled “Method and System for  
13 Distributing Updates by Presenting Directory of Software Available for User Installation That is Not  
14 Already Installed on User Station” was duly and legally issued on April 29, 2003, by the United  
15 States Patent and Trademark Office. A true and correct copy of the ‘054 patent is attached hereto as  
16 Exhibit A.

17 16. U.S. Patent No. 6,769,009, (“the ‘009 patent”), entitled “Method and System for  
18 Selecting a Personalized Set of Information Channels” was duly and legally issued on July 27, 2004,  
19 by the United States Patent and Trademark Office. A true and correct copy of the ‘009 patent is  
20 attached hereto as Exhibit B.

21 17. Teleshuttle Technologies, LLC, is the owner, by assignment, of the ‘054 and ‘009  
22 patents.

23 18. Teleshuttle Corporation is an exclusive licensee of the ‘054 and ‘009 patents from  
24 Teleshuttle Technologies, LLC.

25 19. BTG International Inc. is the exclusive sublicensee of the ‘054 and ‘009 patents from  
26 Teleshuttle Corporation.

27 20. Upon information and belief, Microsoft is known for its software programs, for  
28 example, its “Windows<sup>®</sup>” line of operating system software. Versions of the Windows<sup>®</sup> operating

1 system software products have been sold by Microsoft under a number of different names including,  
2 but not limited to: Windows<sup>®</sup> 95, Windows<sup>®</sup> 98, Windows<sup>®</sup> 2000 and Windows<sup>®</sup> XP. Upon  
3 information and belief, Microsoft is also known for its Microsoft Office software applications. Upon  
4 information and belief, Microsoft also operates an update website service for its Windows<sup>®</sup> and  
5 Office products.

6 21. Upon information and belief, Apple manufactures personal computers and the  
7 operating systems that run on those computers, such as its OS 9 and OS X operating systems. Upon  
8 information and belief, Apple also operates a software updating service website.

9 22. Upon information and belief, Microsoft has made, sold, and/or offered for sale in the  
10 United States, and will continue to make, sell, and/or offer for sale in the United States, software  
11 products, including but not limited to, Windows<sup>®</sup> 95, Windows<sup>®</sup> 98, Windows<sup>®</sup> 2000, Windows<sup>®</sup>  
12 XP, Microsoft Office, the Windows<sup>®</sup> Update website, and/or online extensions of these products,  
13 that operate in a manner that infringes, whether directly through Microsoft's use and/or indirectly  
14 through Microsoft's contributing to and/or inducement of others' use, one or more of the asserted  
15 claims of the '054 patent as set forth more fully below.

16 23. Upon information and belief, Microsoft has made, sold, and/or offered for sale in the  
17 United States, and will continue to make, sell, and/or offer for sale in the United States, software  
18 products, including but not limited to, Windows<sup>®</sup> 95, Windows<sup>®</sup> 98, Windows<sup>®</sup> 2000, Windows<sup>®</sup>  
19 XP, Microsoft Office, the Windows<sup>®</sup> Update website, and/or online extensions of these products,  
20 that operate in a manner that infringes, whether directly through Microsoft's use and/or indirectly  
21 through Microsoft's contributing to and/or inducement of others' use, one or more of the claims of  
22 the '009 patent as set forth more fully below.

23 24. Upon information and belief, Apple has made, sold, and/or offered for sale in the  
24 United States, and will continue to make, sell, and/or offer for sale in the United States, software  
25 products, including but not limited to, OS 9, OS X, the Apple software updating website, and/or  
26 online extensions of these products, that operate in a manner that infringes, whether directly through  
27 Apple's use and/or indirectly through Apple's contributing to and/or inducement of others' use, one  
28 or more of the asserted claims of the '054 patent as set forth more fully below.

1 25. Upon information and belief, Apple has made, sold, and/or offered for sale in the  
2 United States, and will continue to make, sell, and/or offer for sale in the United States, software  
3 products, including but not limited to, OS 9, OS X, the Apple software updating website, and/or  
4 online extensions of these products, that operate in a manner that infringes, whether directly through  
5 Apple's use and/or indirectly through Apple's contributing to and/or inducement of others' use, one  
6 or more of the claims of the '009 patent as set forth more fully below.

7 26. Microsoft has been aware of the '054 patent at least since on or about August 22,  
8 2003.

9 27. Apple has been aware of the '054 patent at least since on or about September 10,  
10 2003.

11 **FIRST CLAIM FOR RELIEF**

12 **Microsoft's Infringement of U.S. Patent No. 6,557,054**  
13 **Under 35 U.S.C. § 271**

14 28. BTG hereby repeats and realleges each and every allegation set forth in paragraphs  
15 1 through 27 in this Complaint.

16 29. Defendant Microsoft's actions as described above constitute acts of patent  
17 infringement, in violation of 35 U.S.C. § 271, of one or more of the following claims of the '054  
18 patent: 1-7, 9-22, 24-30, 34, 36, 37, 41, 49, 51, 52, 56, 64, 66, 67, 71, 79, 81, 82, 86, 91-97, 99-112,  
19 114-127, 129-142, 144-150, 154, 156, 157, 161, 169, 171, 172, 176, 181-187, 189-202, 204-210,  
20 214, 216, 217, 221, 229, 231, 232, 236, 244, 246, 247, 251, 256-262, 264-277, 279-292, 294-300,  
21 301-307, 309-315, 319, 321, 322, 326, 334, 336, 337, 341, 346-352, 354-360, 362-368, 370-376.

22 30. The actions of Defendant Microsoft as described above have been willful.

23 31. Upon information and belief, Defendant Microsoft will continue its willfully  
24 infringing activities unless enjoined by the Court.

25 32. As a direct and proximate result of Defendant Microsoft's willful infringement as  
26 alleged above BTG has been damaged and will continue to be damaged unless Defendant Microsoft  
27 is enjoined by this Court.

28

**SECOND CLAIM FOR RELIEF**

**Apple's Infringement of U.S. Patent No. 6,557,054  
Under 35 U.S.C. § 271**

33. BTG hereby repeats and realleges each and every allegation set forth in paragraphs 1 through 27 in this Complaint.

34. Defendant Apple's actions as described above constitute acts of patent infringement, in violation of 35 U.S.C. § 271, of one or more of the following claims of the '054 patent: 1-7, 9-22, 24-30, 34, 36, 37, 41, 49, 51, 52, 56, 64, 66, 67, 71, 79, 81, 82, 86, 91-97, 99-112, 114-127, 129-142, 144-150, 154, 156, 157, 161, 169, 171, 172, 176, 181-187, 189-202, 204-210, 214, 216, 217, 221, 229, 231, 232, 236, 244, 246, 247, 251, 256-262, 264-277, 279-292, 294-300, 301-307, 309-315, 319, 321, 322, 326, 334, 336, 337, 341, 346-352, 354-360, 362-368, 370-376.

35. The actions of Defendant Apple as described above have been willful.

36. Upon information and belief, Defendant Apple will continue its willfully infringing activities unless enjoined by the Court.

37. As a direct and proximate result of Defendant Apple's willful infringement as alleged above, BTG has been damaged and will continue to be damaged unless Defendant Apple is enjoined by this Court.

**THIRD CLAIM FOR RELIEF**

**Microsoft's Infringement of U.S. Patent No. 6,769,009  
Under 35 U.S.C. § 271**

38. BTG hereby repeats and realleges each and every allegation set forth in paragraphs 1 through 27 in this Complaint.

39. Defendant Microsoft's actions as described above constitute acts of patent infringement, in violation of 35 U.S.C. § 271, of one or more claims of the '009 patent.

40. Upon information and belief, Defendant Microsoft will continue its infringing activities unless enjoined by the Court.

1 41. As a direct and proximate result of Defendant Microsoft's infringement as alleged  
2 above, BTG has been damaged and will continue to be damaged unless Defendant Microsoft is  
3 enjoined by this Court.

4 **FOURTH CLAIM FOR RELIEF**

5 **Apple's Infringement of U.S. Patent No. 6,769,009**  
6 **Under 35 U.S.C. § 271**

7 42. BTG hereby repeats and realleges each and every allegation set forth in paragraphs  
8 1 through 27 in this Complaint.

9 43. Defendant Apple's actions as described above constitute acts of patent infringement,  
10 in violation of 35 U.S.C. § 271, of one or more claims of the '009 patent.

11 44. Upon information and belief, Defendant Apple will continue its infringing activities  
12 unless enjoined by the Court.

13 45. As a direct and proximate result of Defendant Apple's infringement as alleged above,  
14 BTG has been damaged and will continue to be damaged unless Defendant Apple is enjoined by this  
15 Court.

16 **PRAYER FOR RELIEF**

17 Wherefore, Plaintiffs Teleshuttle Technologies, LLC, Teleshuttle Corporation, and BTG  
18 International Inc., pray that this Court enter judgment against Defendants Microsoft Corporation and  
19 Apple Computer, Inc., as follows:

20 A. That Microsoft, its officers, directors, employees, agents, attorneys, privies,  
21 successors, and assigns, and all persons and entities acting in concert or participation with it, under  
22 its authority or control, or on its behalf, be found to have infringed one or more of the enumerated  
23 claims of the '054 patent and be permanently enjoined from further infringement of the '054 patent;

24 B. That Microsoft, its officers, directors, employees, agents, attorneys, privies,  
25 successors, and assigns, and all persons and entities acting in concert or participation with it, under  
26 its authority or control, or on its behalf, be found to have infringed one or more of the claims of the  
27 '009 patent and be permanently enjoined from further infringement of the '009 patent;

28 C. That Microsoft's infringement of the '054 patent be found willful;

1 D. That Plaintiffs be awarded monetary damages for all damages incurred as a result of  
2 Microsoft's infringement, increased threefold for willful infringement pursuant to 35 U.S.C. § 284;

3 E. That Apple, its officers, directors, employees, agents, attorneys, privies, successors,  
4 and assigns, and all persons and entities acting in concert or participation with it, under its authority  
5 or control, or on its behalf, be found to have infringed one or more of the enumerated claims of the  
6 '054 patent and be permanently enjoined from further infringement of the '054 patent;

7 F. That Apple, its officers, directors, employees, agents, attorneys, privies, successors,  
8 and assigns, and all persons and entities acting in concert or participation with it, under its authority  
9 or control, or on its behalf, be found to have infringed one or more of the claims of the '009 patent  
10 and be permanently enjoined from further infringement of the '009 patent;

11 G. That Apple's infringement of U.S. Patent No. 6,557,054 be found willful;

12 H. That Plaintiffs be awarded monetary damages for all damages incurred as a result of  
13 Apple's infringement, increased threefold for willful infringement pursuant to 35 U.S.C. § 284;

14 I. That the Court find this case exceptional, within the meaning of 35 U.S.C. § 285;

15 J. That Plaintiffs be awarded reasonable attorney fees pursuant to 35 U.S.C. § 285;

16 K. That Plaintiffs be awarded their costs in this action;

17 L. That Plaintiffs be awarded pre-judgment and post-judgment interest on all amounts;  
18 and,

19 M. That Plaintiffs be awarded such other relief as this Court may deem just and  
20 appropriate.

21 **DEMAND FOR A JURY TRIAL**

22 Plaintiffs demand a jury trial on all matters triable by jury.

23 Dated: September 7, 2004

24 FINNEGAN, HENDERSON, FARABOW,  
25 GARRETT & DUNNER, L.L.P.

26 By:                   /s/ Robert McCauley                    
27 Robert F. McCauley  
28 Attorneys for Plaintiffs,  
TELESHUTTLE TECHNOLOGIES, LLC,  
TELESHUTTLE CORPORATION, and  
BTG INTERNATIONAL INC.