



## **Judge Grants Permanent Injunction against Microsoft in Favour of i4i, Damages now \$290 million USD**

Toronto, August 12, 2009, – Yesterday, in the U.S. District Court for the Eastern District of Texas, Tyler Division, the Honorable Leonard Davis issued a Final Judgment which upheld the verdict won on May 20, 2009, by i4i, a global technology company headquartered in Toronto, ON, Canada. The Final Judgment is an award in excess of \$290 million and includes a Permanent Injunction against Microsoft Corporation (“Microsoft”) for custom XML in Word 2003 and Word 2007.

The Final Judgment includes the following:

- (a) Defendant Microsoft is found to have unlawfully infringed U.S. Patent No. 5,787,449 (the “449 patent”).
- (b) Microsoft is found to have infringed the ‘449 patent willfully.
- (c) The ‘449 Patent is valid and enforceable, and Michel Vulpe is found not to have engaged in inequitable conduct with respect to the ‘449 patent.
- (d) i4i LP’s and Infrastructures for Information Inc.’s (collectively “i4i”) damage award is found not barred by laches.
- (e) The Court awards damages to i4i for Microsoft’s infringement of the ‘449 patent in the amount of \$200,000,000.
- (f) i4i is further awarded enhanced damages of \$40,000,000 for Microsoft’s willful infringement.
- (g) i4i is further awarded post-verdict damages of \$144,060 per day from May 21, 2009 until the date of this Final Judgment.
- (h) i4i is further awarded pre-judgment interest of \$37,097,032 up to May 20, 2009 and \$21,102 per day thereafter until the date of this Final Judgment.
- (i) i4i is entitled to post-judgment interest as provided for by 28 U.S.C. § 1961 for any time period between the entry of this Final Judgment and the date upon which i4i receives payment from Microsoft as ordered herein.
- (j) Microsoft is permanently enjoined from performing the following actions with Microsoft Word 2003, Microsoft Word 2007, and Microsoft Word products not more than colorably different from Microsoft Word 2003 or Microsoft Word 2007 (collectively “Infringing and Future Word Products”) during the term of the ‘449 patent:
  - Selling, offering to sell, and/or importing in or into the United States any Infringing and Future Word Products that have the capability of opening a .XML, .DOCX, or .DOCM file (“an XML file”) containing custom XML;
  - Using any Infringing and Future Word Products to open an XML file containing custom XML;
  - Instructing or encouraging anyone to use any Infringing and Future Word Products to open an XML file containing custom XML;
  - Providing support or assistance to anyone that describes how to use any infringing and Future Word Products to open an XML file containing XML; and
  - Testing, demonstrating, or marketing the ability of the Infringing and Future Word Products to open an XML file containing custom XML.

This injunction does not apply to any of the above actions wherein the Infringing and Future Word Products open an XML file as plain text.

This injunction also does not apply to any of the above actions wherein any of the Infringing and Future Word Products, upon opening an XML file, applies a custom transform that removes all custom XML elements.

This injunction further does not apply to Microsoft providing support or assistance to anyone that describes how to use any of the infringing products to open an XML file containing custom XML if that product was licensed or sold before the date this injunction takes effect.

This injunction takes effect 60 days from the dates of this order, which is August 11, 2009.

Michel Vulpe, founder of i4i and an inventor of the '449 patent, says: "We are very pleased with the terms of the Final Judgment. The financial award due to i4i is now over \$290 million and a Permanent Injunction has also been issued against Microsoft." Mr. Vulpe adds, "We feel vindicated with this result. i4i will do its utmost to support custom XML users, which is particularly important to implement the ISO 29500 OOXML standard. "

Loudon Owen, Chairman of McLean Watson Capital Inc. and i4i, says: "After 13 years of being Chairman of i4i Inc., I appreciate the extraordinary hard work that has gone into both building the company and achieving this successful judgment. The Permanent Injunction is an important determination for i4i and for the rights of all patent owners." Mr. Owen adds, "We are grateful to our partners, our investors and our legal counsel McKool Smith and Tyler, Texas-based Parker, Bunt & Ainsworth, for their loyalty and commitment to this significant accomplishment."

Michael Cannata, director of i4i LP and advisor to the Northwater Intellectual Property Fund, says: "This judgment demonstrates how a specialized fund can bring capital and patent litigation management expertise to a company with an important patented invention to help it level the playing field when enforcing its rights against a much larger Corporation."

i4i LP is a licensing entity affiliated with i4i Inc. i4i LP owns patent #5,787,449, issued by the United States Patent Office in 1998. Investors in i4i LP include McLean Watson Capital and the Northwater Intellectual Property Fund.

-30-

## **CASE BACKGROUND**

The technology in this case focuses on a particular type of electronic documents. Generally, a "document" as manifested in a computer program has two distinct parts: the content (i.e. the text that the user has created in the document) and the structure (the encoding that allows the computer to recognize the meaning of the text). A type of structural information within an electronic document sometimes comes in the form of "metacodes." Standardized computer languages were developed that utilized metacodes to allow a computer to understand the meaning behind certain text that a user placed in a document. An early example of these languages is the Standard Generalized Markup Language ("SGML"). Later, a markup language was developed called the Extensible Markup Language

("XML"). Asserted U.S. Patent No. 5,787,449 (the "'449 patent") is entitled "Method and System for Manipulating the Architecture and the Content of a Document Separately from Each Other." The '449 patented invention created a reliable method of processing and storing content and metacodes separately and distinctly. The data structure primarily responsible for this separation is called a "metacode map." According to the patent, the "metacode map" allows a computer to manipulate the structure of a document without reference to the content.

Microsoft is the developer of popular word processing and editing software known as Word ("WORD"). Over the years, WORD has had many versions with increasing functionality. In 2003, Microsoft introduced a version of WORD with XML editing capabilities. This functionality continued in the latest version of WORD, "Word 2007." On March 8, 2007 i4i LP filed this action alleging that Microsoft infringed the '449 patent. A jury trial commenced on May 11, 2009. At trial, i4i contended that Microsoft's use of certain WORD 2003 and all of WORD 2007 products for processing XML documents with custom XML elements infringed claims 14, 18, and 20 of the '449 patent. i4i further argued that Microsoft's infringement of the patent was willful. Microsoft claimed that its WORD products did not infringe the patent and that the patent was invalid.

Following a seven day trial, the jury returned a verdict finding the patent valid and infringed and awarding i4i \$200,000,000 in damages. The Court also conducted a bench trial regarding Microsoft's additional equitable defenses of laches and inequitable conduct.

-----

**For more information, please contact:**

**Loudon Owen – [lowen@mcleanwatson.com](mailto:lowen@mcleanwatson.com) or 416-307-3271**