

FAX to:

The Hon. Eric H. Holder

Attorney General of the United States

U.S. Department of Justice, Office of the Attorney General

Fax no.: 202-514-4507

Sent by:

Biotechnology Industry Organization, Washington, D.C., on behalf of 261
innovative businesses, research institutions, technology start-up companies and
organizations

1201 Maryland Avenue, S.W.

Washington, D.C. 20024

Att. H. Sauer, 202-962-6695

This fax contains 12 pages, including this coversheet

Eric H. Holder, Jr.
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
Via facsimile

Washington, D.C., Jan. 14, 2011

Re: *Microsoft Corp. v. i4i L.P. and Infrastructures for Information Inc.*, pending in the United States Supreme Court, No. 10-290

Dear Attorney General Holder:

Reference is made to the attached letter on behalf of numerous businesses, research institutions, and organizations representing American innovation from all 50 states, which was first transmitted to you on December 22, 2010. Since that time, we have received many requests from additional innovative companies and organizations seeking to add their names to its list of signatories, prompting us to resend this letter to you today.

The new signatories include many small technology startup businesses from across the country, as well as large and established companies and institutions like General Electric, Medtronic, Cornell University, and TiVo, bringing the total list of signatories to over 260. The signatories include leading U.S. innovators from across the spectrum of the U.S. economy, including agriculture, biotechnology, consumer products, electrical, mechanical and chemical engineering, green energy, manufacturing, nanotechnology, pharmaceuticals, robotics, semiconductors, software, telecommunication and other sectors.

We thank you for your kind consideration of the attached letter.

Respectfully submitted,



Hans Sauer
Deputy General Counsel,
Biotechnology Industry Organization

Eric H. Holder, Jr.
Attorney General of the United States

Neal K. Katyal
Acting Solicitor General of the United States

U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
Via facsimile

Re: *Microsoft Corp. v. i4i L.P. and Infrastructures for Information Inc.*, pending in the United States Supreme Court, No. 10-290

*Washington, D.C., December 22, 2010;
With additional signatories, January 13, 2011*

Dear Attorney General Holder,
Dear Acting Solicitor General Katyal:

On behalf of the 261 undersigned businesses, research institutions, technology startup companies and organizations representing American innovation from all 50 states and the District of Columbia, we are writing concerning the pending consideration of the *Microsoft v. i4i* appeal in the United States Supreme Court. We are greatly concerned that a reversal of the lower court's decision in this case could seriously weaken the presumption of validity that attaches to millions of patents in force in the United States today, thereby undermining longstanding investment-backed reliance interests that are critical for domestic job creation and economic growth, and for U.S. technological leadership internationally.

The U.S. patent system is the strongest in the world. It promotes innovation by facilitating the investment necessary for small businesses to form and grow, and for more established businesses to continue competing and thriving in an increasingly competitive global marketplace. Our patent system helps ensure that the United States can continue to reap the benefit of innovation and advances in technology, which creates jobs and growth opportunities in every state and every sector of our economy.

Private investment in innovation, however, is predicated on the ability of businesses to rely on the strength and presumed validity of issued patents for product development, partnering, and licensing decisions. The public, likewise, has an expectation that patents that were examined and granted by the U.S. Patent and Trademark Office confer valid rights that should be respected and on which it can rely. Accordingly, courts have required since long before the enactment of the 1952 Patent Act that those who seek to challenge a patent before a lay jury or generalist judge must carry a heightened burden of proof, under which the facts underlying the validity challenge must be proved to a high degree of probability, by "clear and convincing evidence."

Permitting infringers to invalidate patents on a lower standard of evidence, as is now proposed in the *Microsoft v. i4i* case, could thus frustrate decades of settled expectations under which large investments were made in reliance on patents that were believed to carry a strong presumption of validity. Shifting the law to a weaker presumption of validity could also deeply affect the prospective investment and product development decisions of innovative businesses, affect public-private technology transfer, and profoundly change the behavior of patent applicants and litigants.

We believe this issue to be of critical importance for domestic innovation, job creation, and the Nation's technological leadership internationally. Accordingly, we respectfully request you to carefully consider these implications as you develop any position that the United States Government may take on this important Supreme Court appeal. We also would urge you to seek input from a wide range of stakeholders across the U.S. economy and from within the U.S. Government to ensure that any such position will help preserve and promote innovation across the broad spectrum of the American economy.

We thank you for considering our views on this crucial matter, and we look forward to working with you in this regard.

Respectfully submitted,

3M Company
St. Paul, MN

Ace Vision Group Inc.
Cuyahoga Falls, OH

Acorda Therapeutics Inc.
Hawthorne, NY

Acorn Cardiovascular
New Brighton, MN

ActiveVideo Networks, Inc.
San Jose, CA

Acustream LLC
McLean, VA

Adams Capital Management, Inc.
Boston, MA

Advanced BioHealing
Westport, CT

Advanced System Technologies, Inc.
Oakland, CA

Aero Marine Co.
Port Townsend, WA

Alkermes
Waltham, MA

Allergan Inc.
Irvine, CA

Alliance for American Innovation
Washington, DC

Allvivo Vascular Inc.
Lake Forest, CA

Alpha Scientific Corp.
Malvern, PA

Amgen Inc.
Thousand Oaks, CA

American Innovators for Patent Reform

New York, NY

Amylin Pharmaceuticals Inc.

San Diego, CA

Anatomic Research, Inc.

Arlington, VA

Antigenics

Lexington, MA

APJeT Inc.

Santa Fe, NM

Apnex Medical Inc.

St. Paul, MN

ArborGen

Charleston, SC

Articulinx

Cupertino, CA

Aspiration Innovation Inc.

Fort Collins, CO

Augme Technologies Inc.

New York, NY

Automotive Technologies International, Inc.

Denville, NJ

B&R Plastics Inc.

Denver, CO

BASF

Florham Park, NJ

Bavarian Nordic

Washington, DC

Bayer CropScience

Morristown, NJ

Bayer HealthCare

Morristown, NJ

Bi-Level Technologies

Encinitas, CA

BIOCOM

San Diego, CA

BioForward

Madison, WI

BioMarin

Novato, CA

Biomerix Corporation

Fremont, CA

Biotechnology Industry Organization

Washington, DC

BlueCava Inc.

Irvine, CA

BP America Inc.

Houston, TX

Brain Basket, LLC

Boulder, CO

Brainstorm, LLC

Colorado Springs, CO

Calibra Medical, Inc.

Redwood City, CA

California Healthcare Institute

La Jolla, CA

Calypso Medical

Seattle, WA

Cardiovascular Systems Inc

Saint Paul, MN

Cargill Inc.

Minneapolis, MN

Celleration Inc.

Eden Prairie, MN

Center for Patent Policy
Washington, DC

Ceres
Thousand Oaks, CA

Cerevast Therapeutics Inc.
Redmond, WA

CHF Solutions Inc.
Brooklyn Park, MN

Chimerix Inc.
Durham, NC

**Columbia Medical Manufacturing
LLC**
Santa Fe Springs, CA

Computrol Inc.
Golden, CO

Conatus Pharmaceuticals Inc.
San Diego, CA

Conceptus Inc.
Mountain View, CA

CONNECT
San Diego, CA

Cornell University
Ithaca, NY

Cornerstone Pharmaceuticals, Inc.
Cranbury, NJ

Corning Incorporated
Corning, NY

Curo Medical Inc.
Saratoga, CA

Cyberonics
Houston, TX

Cygnus Broadband
San Diego, CA

Delcath Systems Inc.
New York, NY

Design Mentor Inc.
Pelham, NH

Dolby Laboratories Inc.
San Francisco, CA

Dornet.net
Potomac, MD

DuPont
Wilmington, DE

Dynatronics
Salt Lake City, UT

Eagle Harbor Holdings, LLC
Bainbridge Island, WA

Eatoni Ergonomic, Inc.
New York, NY

Edison Innovations, Inc.
Santa Rosa, CA

Eisai Inc.
Teaneck, N.J

Element One Inc.
Boulder, CO

Eli Lilly and Co.
Indianapolis, IN

e-LYNXX Corp.
Chambersburg, PA

Emerson Analytics, LLC
Fort Collins, CO

EmpowerUs Tools Corp.
Fairport, NY

Essentialink.com, LLC
Westminster, CO

Essex Woodlands

Palo Alto, CA

ExploraMed Development LLC

Mountain View, CA

Fallbrook Technologies Inc.

San Diego, CA

Financial Healthcare Systems LLC

Greenwood Village, CO

First Goal LLC

Severn, MD

ForSight Labs LLC

Menlo Park, CA

ForSight VISION4 Inc.

Menlo Park, CA

Forward Ventures

San Diego, CA

Front Range Oil and Gas LLC

Golden, CO

GearMax USA Ltd.

Ashland, VA

Genentech Inc.

San Francisco, CA

Gen-Probe Inc.

San Diego, CA

Genzyme Corporation

Cambridge, MA

General Compression, Inc.

Newton, MA

General Electric Co.

Fairfield, CT

General Nanotechnology LLC

Berkeley, CA

Geron Corporation

Menlo Park, CA

GlaxoSmithKline

Research Triangle Park, NC

Global Network Computers Co.

Arlington, VA

GlobeImmune, Inc.

Louisville CO

Grandis, Inc.

Milpitas, CA

GlycoMimetics Inc.

Gaithersburg, MD

Greatbatch

Clarence, NY

Heritage Woods Inc.

Alto, MI

High Peaks Materials LLC

Parker, CO

High Plains Well Service LLC

Centennial, CO

Human Genome Sciences

Rockville, MD

HUNT Dimming

Fort Collins, CO

Hydra Biosciences

Cambridge, MA

ICE Energy, Inc.

Windsor, Colorado

Ideation HQ, LLC

Baltimore, MD

Ikaria

Clinton, NJ

Illinois Tool Works Inc.
Glenview, IL

ImmunoGen Inc.
Waltham, MA

Immunologix, Inc.
Charleston, SC

Inovadeas LLLP
Fort Collins, CO

Inovio Pharmaceuticals Inc.
Blue Bell, PA

InterDigital Communications LLC
King of Prussia, PA

International Heart Institute of Montana
Missoula, MT

InventorEd.org
Grand Blanc, MI

IP Checkups, Inc.
Berkeley, CA

Isis Pharmaceuticals Inc.
Carlsbad, CA

JBS Brainex, LLC
Colorado Springs, CO

Johnson & Johnson
New Brunswick, NJ

JSTranex, LLC
Colorado Springs, CO

KB Visions, Inc.
Palm Coast, FL

Keeton Industries
Wellington, CO

Kolltan Pharmaceuticals Inc.
New Haven, CT

L&T Riser LLC
Parker, CO

LAAx Inc.
Livermore, CA

Lateral Reservoir Stimulation LLC
Centennial, CO

Lauder Partners, LLC
Atherton, CA

LED Up Enterprises, Inc.
Agoura Hills, CA

Liberty Research Co.
Gonic, NH

Life Technologies
Carlsbad, CA

LifeScience Alley
St. Louis Park, MN

LigoCyte Pharmaceuticals Inc.
Bozeman, MT

Liquid Piston, Inc.
Bloomfield, CT

LiquidBreaker, LLC
Carlsbad, CA

LiquiLock LLC
Arvada, CO

Luminous Medical Inc.
Carlsbad, CA

Magsil Corp.
Santa Clara, CA

MannKind Corp.
Valencia, CA

Mardil Medical Inc.
Orono, MN

Marketcore, Inc.
Westport CT

**Massachusetts Medical Device
Industry Council (MassMEDIC)**
Boston, MA

**Medical Device Manufacturers
Association (MDMA)**
Washington, DC

MedTech
Syracuse, NY

Medtronic, Inc.
Minneapolis, MN

MedVenture Associates
Emeryville, CA

Merck & Co Inc.
Whitehouse Station, NJ

Merial
Duluth, GA

Metabolex, Inc.
Hayward, CA

MichBIO
Ann Arbor, MI

Momenta Pharmaceuticals Inc.
Cambridge, MA

Morfin Corp.
Waldorf, MD

Monsanto
St. Louis, MO

Mountain View Pharmaceuticals, Inc.
Menlo Park, CA

Nanosys, Inc.,
Palo Alto, CA

Nantero
Pittsburgh, PA

NeoTract® Inc.
Pleasanton, CA

Neovista Inc.
Newark, CA

Neuro Resource Group Inc.
Plano, TX

Neuronetics Inc.
Malvern, PA

NeuroPace Inc.
Mountain View, CA

**New Mexico Optics Industry
Association**
Albuquerque, NM

New Zealand Australian Co.
San Clemente, CA

Norris Capital Inc.
Hanson, MA

**North Carolina Biosciences
Organization**
Research Triangle Park, NC

Novo Nordisk Inc.
Princeton, NJ

OncoMed Pharmaceuticals Inc.
Redwood City, CA

OnLive, Inc.
Palo Alto, CA

OoOT (Out-of-Order Techniques)
Raleigh, NC

OptiMark, Inc.
Jersey City, NJ

**Optimum Performance Solutions LLC,
dba AcuityZ**
Topeka, KS

Oyster Optics, Inc.
Melbourne, FL

Paisano Industries, L.P.
Austin, TX

Paracor Medical Inc.
Sunnyvale, CA

ParkerVision Inc.
Jacksonville, FL

PE Fusion
Fort Collins, CO

Pfizer Inc.
New York, NY

PH2 Solutions, Inc.
West Orange, NJ

PhotonEdge Inc.,
Pleasanton, CA

PhRMA
Washington, DC

Pioneer Hi-Bred
Johnston, IA

Pivot Medical Inc.
Sunnyvale, CA

POMOCO LLC
Centennial, CO

PopPack LLC
San Francisco, CA

Portaero Inc.
Cupertino, CA

Procter & Gamble
Cincinnati, OH

Professional Inventors Alliance
Washington, DC

PTC Therapeutics
South Plainfield, NJ

Purdue Pharma L.P.
Stamford CT

R R Enterprises, Inc.
Grand Blanc MI

Rambus, Inc.
Los Altos, CA

Rearden LLC
San Francisco, CA

Research Corporation Technologies
Tucson, AZ

ResMed Corporation
San Diego, CA

Revivicor Inc.
Blacksburg, VA

Roche (Hoffmann-La Roche Inc.)
San Francisco, CA

Sanofi-Aventis US
Bridgewater, NJ

Silere Medical Technology Inc.
Kirkland, WA

SIPCO, LLC
Atlanta, GA

SoftRay Inc.
Laramie, WY

Solar Hydrogen Energy Co.
La Mesa, CA

Soleon Robotics LLC
Annandale, VA

SoSound Solutions LLC
Louisville, CO

Soverain Software LLC
Chicago, IL

Spiracur Inc.
Sunnyvale, CA

**St. Clair Intellectual Property
Consultants, Inc.**
Grosse Pointe, MI

STC.UNM
Albuquerque, NM

SuturePro Technologies Inc.
Menlo Park, CA

SuVolta, Inc.
Los Gatos, CA

Swan Valley Medical Inc.
Bigfork, MT

Sysdyne Corporation
Minneapolis, MN

Tactile Systems Technology Inc.
Minneapolis, MN

Tarsus Medical Inc.
Mountain View, CA

Tegracore LLC
Ft. Collins, CO

TeleMed/RLIS, Inc.
San Antonio, TX

Temple Construction
Fort Collins, CO

Terra Moya Aqua Inc.
Cheyenne, WY

Tessera Inc.
San Jose, CA

Tethys Bioscience Inc.
Emeryville, CA

Textura Corp.
Deerfield, IL

The Foundry LLC
Menlo Park, CA

The Health Industry Council
Irving, TX

The Innovation Factory
Duluth, GA

The Regents of the University of California
Oakland, CA

The Stella Group Ltd.
Washington, DC

**Thunder Basin Environmental
Consulting Inc.**
Buffalo, WY

TI Funding Group
New York NY

TiVo Inc.
Alviso, CA

Tranex, Inc.
Colorado Springs, CO

TYRX Inc.
Monmouth Junction, NJ

Unicover Corporation
Cheyenne, WY

Uniloc USA Inc.
Irvine, CA

University of Kentucky
Lexington, KY

Urovalve Inc.
Newark, NJ

US Business and Industry Council
Washington, DC

US Renewables Group
Santa Monica, CA

USG Corporation
Chicago, IL

Valeritas Inc.
Bridgewater, NJ

Variant, Inc.
St. Louis, MO

Vehicle Enhancement Systems, Inc.
Rock Hill, SC

Ventus Medical Inc.
Belmont, CA

Versata Software, Inc.
Austin, TX

Vertex Pharmaceuticals
Cambridge, MA

Vibrynt Inc.
Redwood City, CA

VirnetX Holding Corp.
Scotts Valley, CA

Viryd Technologies, Inc.
Austin, TX

VisionCare Ophthalmic Technologies
Saratoga, CA

Volterra Semiconductor Corporation
Fremont, CA

Walker Manufacturing Company
Fort Collins, CO

**Washington Biotechnology &
Biomedical Association**
Seattle, WA

Wellington Operating Company
Centennial, CO

Wellington Water Works LLC
Centennial, CO

**Wisconsin Alumni Research
Foundation**
Madison, WI

Wolf Robotics, LLC
Fort Collins, CO

XOMA LLC
Berkeley, CA

Xpert Innovations, Inc.
Stafford, VA

ZOLL Medical Corporation
Chelmsford, MA

ZuumCraft, Inc.
San Diego, CA