

05-1056 MICROSOFT CORP. V. AT & T CORP.

DECISION BELOW:414 F3d 1366

LOWER COURT CASE NUMBER: 04-1285

QUESTIONS PRESENTED:

Title 35 U.S.C. § 271(f)(1) provides that it is an act of direct patent infringement to “suppl[y]. . . from the United States . . . components of a patented invention . . . in such manner as to actively induce the combination of such components outside of the United States.”

In this case, AT&T Corp. alleges that when Microsoft Corporation's Windows software is installed on a personal computer, the programmed computer infringes AT&T's patent for a “Digital Speech Coder” system. AT&T sought damages not only for each Windows-based computer made or sold in the United States, but also, under Section 271(f)(1), for each computer made and sold abroad. Extending Section 271(f)—and consequently, the extraterritorial application of U.S. patent law—the Federal Circuit held that Microsoft infringed under Section 271(f)(1) when it exported master versions of its Windows software code to foreign computer manufacturers, who then copied the software code and installed the duplicate versions on foreign-manufactured computers that were sold only to foreign consumers. The questions presented are:

(1) Whether digital software code—an intangible sequence of “1's” and “0's”—may be considered a “component[] of a patented invention” within the meaning of Section 271(f)(1); and, if so,

(2) Whether copies of such a “component[]” made in a foreign country are “supplie[d] . . . from the United States.”

CERT. GRANTED 10/27/2006

CHIEF JUSTICE ROBERTS TOOK NO PART.