

### **Allegations Of Indirect Patent Infringement Dismissed For Failure To Plead Requisite Knowledge (Robinson, J.)**

In *Xpoint Technologies, Inc. v. Microsoft Corp.*, 2010 U.S. Dist. Lexis 82013 (D. Del. August 12, 2010), the Court granted in part a motion to dismiss for failure to state a claim filed by three of the defendants. The defendants (Research in Motion, Advanced Micro Devices, Inc., and Alacritech) argued that the plaintiff failed to proffer any specific allegations of indirect infringement against them and simply alleged that the defendants were “directly and/or indirectly” infringing the patent-in-suit.

The Court agreed with the defendants and held that "plaintiff at bar fails to allege sufficient facts that would allow the Court to infer that AMD, RIM or Alacritech had any knowledge of the [patent-in-suit] at the time they were committing the allegedly infringing activities. Instead, it resorts to a mere recitation of the elements for indirect infringement, which is insufficient." The plaintiff was granted leave to amend the indirect infringement claims against the three defendants.