

GOOGLE INC. AND KAI-FU LEE v. MICROSOFT CORPORATION,
UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA,
CIVIL ACTION No. CV 05-03095 (RMW)

DECLARATION OF STACEY L. WEXLER
IN SUPPORT OF REPLY BY PLAINTIFFS
GOOGLE INC. AND KAI-FU LEE IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

EXHIBIT A

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 COUNTY OF KING

3 -----

4 MICROSOFT,)

5 PLAINTIFF,)

6) NO. 05-2-23561-6 SEA

7 VS.)

8 GOOGLE AND KAI-FU LEE,)

9 DEFENDANTS.)

10 -----

11 VERBATIM REPORT OF PROCEEDINGS

12 PRELIMINARY INJUNCTION HEARING - DAY 1

13 -----

14 THE HONORABLE STEVEN GONZALEZ

15 SEATTLE, WASHINGTON

16 SEPTEMBER 6, 2005

17 APPEARANCES:

18 FOR PLAINTIFF: KARL QUACKENBUSH

19 JEFF JOHNSON

20 THOMAS BURT

21 FOR DEFENDANT GOOGLE: JOHN KEKER

22 RAGESH TANGRI

23 FOR DEFENDANT LEE: BRADLEY KELLER

24

25 REPORTED BY: APRIL LAINE

1 JOIN IN THAT. NONE WERE PRESENT, SO WE
2 CONDUCTED IT WITHOUT THE INTERVENORS
3 THERE. NO MATTERS OF SUBSTANCE WERE
4 DISCUSSED IN CHAMBERS. SO FOR THE
5 PUBLIC'S BENEFIT, WE HAVE NOT BEGUN TO
6 DISCUSS THE MERITS OF ANY OF THE PARTIES'
7 POSITIONS YET.

8 THE PARTIES MAY KNOW I HAVE A
9 BACKGROUND IN EAST ASIAN STUDIES AND AT
10 ONE POINT WAS FLUENT IN CHINESE. I HAVE
11 REVIEWED A NUMBER OF THE EXHIBITS. SOME
12 OF THE TRANSLATIONS ARE QUITE GOOD. SOME
13 ARE NOT SO GOOD. I HAVE REFERRED TO SOME
14 OF THE SOURCE DOCUMENTS IN MY READING,
15 MOSTLY OUT OF INTEREST, BUT ALSO BECAUSE
16 THEY DIFFER IN SOME SLIGHT WAYS FROM THE
17 ENGLISH TRANSLATIONS.

18 ANYTHING FURTHER FROM THE PARTIES
19 BEFORE WE BEGIN THE HEARING THIS MORNING?

20 MR. JOHNSON: NONE FROM THE
21 PLAINTIFF, YOUR HONOR.

22 MR. KEKER: NO, YOUR HONOR.

23 THE COURT: VERY WELL.

24 MR. JOHNSON: GOOD MORNING, YOUR HONOR.
25 YOUR HONOR, THIS CASE IS NOT A TRADE

1 SECRET CASE. IT'S NOT A MISAPPROPRIATION
2 CASE. THIS IS A NONCOMPETE CASE.

3 THIS IS A CASE ABOUT WHETHER DR. LEE
4 SHOULD BE REQUIRED TO LIVE UP TO HIS
5 PROMISE, WHICH WAS THAT WHILE HE WAS AT
6 MICROSOFT OR -- HIS PROMISE IS SIMPLY
7 THIS, YOUR HONOR: THAT HE WILL NOT WORK
8 ON THE SAME THINGS HE WORKED ON AT
9 MICROSOFT AT GOOGLE. NOW, DID HE INTEND
10 TO LIVE UP TO THAT PROMISE? THE ANSWER TO
11 THAT IS, QUITE CLEARLY, NO.

12 HERE'S HOW WE KNOW THIS, YOUR HONOR.
13 THIS IS THE VERY FIRST E-MAIL THAT DR. LEE
14 SENT TO GOOGLE. HE SENT IT --

15 THE COURT: FOR THE RECORD, IT'S WHAT
16 DOCUMENT?

17 MR. JOHNSON: EXHIBIT 1. I APOLOGIZE,
18 YOUR HONOR. EXHIBIT 1 TO PLAINTIFF'S PI
19 MOTION.

20 THE COURT: THANK YOU.

21 MR. JOHNSON: YOUR HONOR, HE SENT
22 THIS E-MAIL TO ERIC SCHMIDT, THE CEO OF
23 GOOGLE, AND TO LARRY PAGE AND SERGEY BRIN,
24 THE CO-FOUNDERS OF GOOGLE.

25 HERE'S WHAT DR. LEE HAD TO SAY IN

1 STATE OF WASHINGTON)
2) SS.
3 COUNTY OF KING)
4

5 I, APRIL M. LAINE, ONE OF THE OFFICIAL
6 COURT REPORTERS OF THE SUPERIOR COURT OF THE STATE
7 OF WASHINGTON, IN AND FOR THE COUNTY OF KING, DO
8 HEREBY CERTIFY THAT THE VERBATIM REPORT OF
9 PROCEEDINGS IN THE FOREGOING CAUSE WAS ORDERED
10 VERBALLY BY DENNIS TESSIER AND SCOTT RIEWERTS ON
11 THE 6TH DAY OF AUGUST, 2005.

12
13 I FURTHER CERTIFY THAT I DELIVERED A COPY OF
14 SAID VERBATIM REPORT OF PROCEEDINGS TO MR. TESSIER
15 AND MR. RIEWERTS ON THE 12TH DAY OF SEPTEMBER,
16 2005, THE ORIGINAL BEING RETAINED BY ME.

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APRIL M. LAINE
OFFICIAL COURT REPORTER