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5 Attorneys for SUN MICROSYSTEMS, INC.,  
 6 MORGAN, LEWIS & BOCKIUS LLP, AND MAKING  
 7 A SPECIAL APPEARANCE FOR JEFFREY  
 KINGSTON, WHO HAS NOT BEEN SERVED AND IS  
 NOT WAIVING SERVICE

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 9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN JOSE DIVISION

12  
 13 In re Application of Microsoft Corp.

14 Case No. 06-80038 JF (PVT)

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 16 **[PROPOSED] ORDER GRANTING SUN**  
 17 **MICROSYSTEMS, INC, MORGAN,**  
 18 **LEWIS & BOCKIUS LLP, AND JEFFREY**  
 19 **KINGSTON'S, BY SPECIAL**  
 20 **APPEARANCE, MOTION TO QUASH**  
 21 **SUBPOENA DUCES TECUM FOR**  
 22 **PERSONAL APPEARANCE AND**  
 23 **PRODUCTION OF DOCUMENTS AND**  
 24 **THINGS**

25  
 26 Date: To Be Set  
 27 Time: To Be Set  
 28 Before: Magistrate Patricia V. Trumbull  
 Place: Courtroom 5, Fourth Floor

Complaint Filed: N/A  
 Trial Date: N/A

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The Court having considered the papers submitted in support of and in opposition to the Motion, as well as admissible evidence offered in connection therewith, finds as follows:

GOOD CAUSE HAVING BEEN SHOWN THEREFOR, it is hereby ordered that:

1. Applicant Microsoft Corporation's ("Microsoft") Motion to Quash the Subpoenas for Personal Appearance and Production of Documents and Things served on Morgan, Lewis & Bockius LLP ("MLB") and Sun Microsystems, Inc. ("Sun"), and directed to Jeffrey Kingston, who was not served, is hereby GRANTED.

2. The Order Granting *Ex Parte* Application for Order Allowing Discovery Pursuant to 28 U.S.C. Section 1782 and Setting Deadlines for Objections and Motions to Quash ("the Order") that was signed by Magistrate Patricia Trumbull on March 6, 2006 is hereby VACATED.

3. Microsoft's March 3, 2006 Application for Order Allowing Discovery Pursuant to 28 U.S.C. Section 1782 is hereby DENIED.

Dated: March \_\_\_\_, 2006

By \_\_\_\_\_  
PATRICIA V. TRUMBULL  
United States Magistrate Judge