

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

Anascape, Ltd.,

Plaintiff,

v.

Microsoft Corp., and  
Nintendo of America, Inc.,

Defendants.

Civil Action No. 9:06-cv-158-RC

JURY TRIAL REQUESTED

**ANASCAPE, LTD.'S UNOPPOSED MOTION TO SUPPLEMENT THE  
PROTECTIVE ORDER**

In accordance with Federal Circuit Rule 11(d),<sup>1</sup> Anascape Ltd. (“Anascape”) and Nintendo of America, Inc. have agreed that the exhibits admitted at trial that are listed in the attached proposed order do not need to remain protected on appeal. As a result, Anascape requests that the Court supplement the protective order to exclude these documents, notwithstanding any confidentiality designations on the face of those documents.

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<sup>1</sup> Federal Circuit Rule 11(d) states, in part: “**Agreement by Parties to Modify a Protective Order; Certificate of Compliance.** If any portion of the record in the trial court is subject to a protective order and a notice of appeal has been filed, each party must promptly review the record to determine whether protected portions need to remain protected on appeal. If a party determines that some portions no longer need to be protected, that party must seek an agreement with the other party. Any agreement that is reached must be promptly presented to the trial court, which may issue an appropriate order.”

DATED: September 18, 2008

Respectfully submitted,

**McKOOL SMITH PC**

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**ATTORNEYS FOR PLAINTIFF  
ANASCAPE, LTD.**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) on September 18, 2008. As such, this motion was served on all counsel who have consented to electronic service. Local Rule CV-5(a)(3)(A).

/s/ Anthony M. Garza  
Anthony M. Garza

**CERTIFICATE OF CONFERENCE**

On September 16, 2008, I corresponded with James Blank, counsel for Nintendo, and was informed that Nintendo did not oppose the relief requested in this motion.

/s/ Anthony M. Garza