

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MICROSOFT CORPORATION, a Washington corporation,)	No. CV07 936RSM
)	
Plaintiff,)	DECLARATION OF DAVID R. KAPLAN
)	IN SUPPORT OF IMMERSION'S
v.)	MOTION FOR PARTIAL SUMMARY
)	JUDGMENT REGARDING
IMMERSION CORPORATION, a Delaware corporation,)	MICROSOFT'S CLAIM OF BREACH OF
)	THE IMPLIED COVENANT
Defendant.)	
)	Note On Motion Calendar: August 8, 2008
)	Oral Argument Requested

1 I, David R. Kaplan, declare as follows:

2 1. I am an attorney at Irell & Manella LLP, co-counsel of record for defendant
3 Immersion Corporation (“Immersion”) in the above-captioned action. I am a member in good
4 standing of the California State Bar and am admitted to practice before this Court in this case *pro*
5 *hac vice*. I have personal knowledge of the facts set forth in this Declaration and, if called as a
6 witness, could and would testify competently to such facts under oath.

7 2. Attached hereto as Exhibit 1 is a document Bates-stamped MS 5364 through MS
8 5380, produced during discovery in this action. It is a true and correct copy of a Sublicense
9 Agreement by and between Microsoft Corporation (“Microsoft”) and Immersion dated July 25,
10 2003.

11 3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from
12 Microsoft’s Responses To Immersion’s First Set of Interrogatories dated February 13, 2008.

13 4. Attached hereto as Exhibit 3 is a document Bates-stamped IMRMS 16 through
14 IMRMS 43, produced during discovery in this action. It is a true and correct copy of an email
15 from Laura Peter to Kenneth Lustig dated May 14, 2007, that attaches a true and correct copy of
16 an Agreement by and between, on the one hand, Sony Computer Entertainment America Inc. and
17 Sony Computer Entertainment Inc., and on the other hand, Immersion, executed on or about
18 February 28, 2007.

19 5. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the
20 deposition transcript of Victor Viegas, whose deposition was taken on May 22, 2008.

21 6. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the
22 deposition transcript of Laura A. Peter, whose deposition was taken on March 21, 2008.

23 7. Attached hereto as Exhibit 6 is a true and correct copy of a Notice of Withdrawal
24 of Appeals and Consented to Motion to Dismiss By Appellant Sony Computer Entertainment
25 Inc. and Sony Computer Entertainment America Inc. dated March 1, 2007, in the action in the
26 United States Court of Appeals for the Federal Circuit entitled Immersion Corporation v. Sony

1 Computer Entertainment of America, Inc. and Sony Computer Entertainment Inc. v. Internet
2 Services, LLC, Appeal Nos. 05-1227, -1441.

3 8. Attached hereto as Exhibit 7 is a document Bates-stamped IMRMS 565 through
4 IMRMS 566, produced during discovery in this action. It is a true and correct copy of an Order
5 dated March 14, 2007 in the action in the United States Court of Appeals for the Federal Circuit
6 entitled Immersion Corporation v. Sony Computer Entertainment of America, Inc. and Sony
7 Computer Entertainment Inc. v. Internet Services, LLC, Appeal Nos. 05-1227, -1441.

8 9. Attached hereto as Exhibit 8 is a true and correct copy of a check from Sony
9 Computer Entertainment America Inc. made payable to the order of Immersion Corporation
10 dated March 20, 2007.

11 10. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from
12 Immersion's Responses To Microsoft's First Set of Interrogatories and Requests For Production
13 of Documents dated October 11, 2007.

14 11. Attached hereto as Exhibit 10 is a document Bates-stamped IMRMS 563 through
15 IMRMS 564, produced during discovery in this action. It is a true and correct copy of a Notice
16 of Satisfaction of Final Judgment dated March 19, 2007 in the action in the United States District
17 Court for the Northern District of California entitled Immersion Corporation v. Sony Computer
18 Entertainment of America, Inc. and Sony Computer Entertainment Inc., Northern District of
19 California Case No. C-02-00710 CW (WDB).

20 12. Attached hereto as Exhibit 11 is a document Bates-stamped IMRMS 561 through
21 IMRMS 562, produced during discovery in this action. It is a true and correct copy of a
22 Stipulation and Order Dissolving Permanent Injunction dated March 19, 2007 in the action in the
23 United States District Court for the Northern District of California entitled Immersion
24 Corporation v. Sony Computer Entertainment of America, Inc. and Sony Computer
25 Entertainment Inc., Northern District of California Case No. C-02-00710 CW (WDB).
26

1 13. Attached hereto as Exhibit 12 is a document Bates-stamped IMRMS 9666
2 through IMRMS 9671, produced during discovery in this action. It is a true and correct copy of
3 a Current Report on Form 8-K filed March 1, 2007 for the period ending February 28, 2007 on
4 behalf of Immersion Corporation with the U.S. Securities and Exchange Commission.

5 14. Attached hereto as Exhibit 13 is a document Bates-stamped IMRMS 50 through
6 IMRMS 52, produced during discovery in this action. It is a true and correct copy of an email
7 from E.J. Bastien to Laura Peter dated May 11, 2007, with attachment.

8 15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the
9 deposition transcript of Charles A. Laff, whose deposition was taken on June 9, 2008.

10 16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the
11 deposition transcripts of Jennifer Liu, whose deposition was taken on December 20, 2007 and
12 January 23, 2008.

13 17. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from a
14 Quarterly Report on Form 10-Q filed May 10, 2007 for the period ending March 31, 2007 on
15 behalf of Immersion Corporation with the U.S. Securities and Exchange Commission.

16 18. Attached hereto as Exhibit 17 is a document Bates-stamped IMRMS 3808-
17 through IMRMS 3812, produced during discovery in this action. It is a true and correct copy of
18 a decision by the United States Patent and Trademark Office mailed June 5, 2007.

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21 Executed on July 16, 2008, at Los Angeles, California.

22 By /s/ David R. Kaplan
23 David R. Kaplan
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1 **CERTIFICATE OF SERVICE**

2 The undersigned attorney certifies that on the 16th day of July, 2008, I electronically filed
3 the foregoing with the Clerk of the Court using the CM/ECF system which will send notification
4 of such filing to the following:

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24 *Attorneys for Defendant Immersion Corporation*