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The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MICROSOFT CORPORATION, a Washington corporation,)	No. CV07 936RSM
)	
Plaintiff,)	SUPPLEMENTAL DECLARATION OF
)	DAVID R. KAPLAN IN SUPPORT OF
v.)	IMMERSSION'S MOTION FOR PARTIAL
)	SUMMARY JUDGMENT REGARDING
IMMERSSION 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 the
12 deposition transcript of Stephen M. Ambler, whose deposition was taken on June 12, 2008.

13 4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the
14 deposition transcript of Barry J. Spector, whose deposition was taken on April 15, 2008.

15 5. Attached hereto as Exhibit 4 is a true and correct copy of excerpts of Microsoft
16 Corporation’s Responses to Immersion Corporation’s First Set of Interrogatories to Microsoft
17 Corporation dated February 13, 2008.

18 6. Attached hereto as Exhibit 5 is a document Bates-stamped IMRMS 4205 –
19 IMRMS 4230, produced during discovery in this action. It is a true and correct copy an
20 Agreement between Sony Computer Entertainment America Inc. and Sony Computer
21 Entertainment Inc. and Immersion Corporation executed on or about February 28, 2007.

22
23 Executed on August 8, 2008, at Los Angeles, California.

24 By /s/ David R. Kaplan
25 David R. Kaplan

1 **CERTIFICATE OF SERVICE**

2 The undersigned attorney certifies that on the 8th day of August, 2008, I electronically
3 filed the foregoing with the Clerk of the Court using the CM/ECF system which will send
4 notification of such filing to the following:

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