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8 The Hon. Ricardo S. Martinez
Noted on Motion Calendar: June 25, 2007

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10 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

11 MICROSOFT CORPORATION, a
Washington corporation,

12 Plaintiff,

13 v.

14 IMMERSION CORPORATION, a
Delaware corporation,

15 Defendant.

No. C07-0936RSM

**PLAINTIFF'S MOTION TO SEAL
ORIGINAL COMPLAINT**

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17 **I. INTRODUCTION AND RELIEF REQUESTED**

18 Plaintiff Microsoft Corporation ("Microsoft") filed this breach of contract
19 action on June 18, 2007. The action alleges, among other things, that defendant
20 Immersion Corporation ("immersion") failed to make certain promised payments to
21 Microsoft, following Immersion's settlement of patent litigation with Sony Computer
22 Entertainment, Inc. and Sony Computer America (collectively, "Sony").

23 Since the original Complaint was filed, counsel for Immersion has objected
24 that certain terms contained in the original Complaint are confidential. Plaintiff
25 Microsoft has subsequently filed an Amended Complaint, which omits the
26 language to which Immersion has objected.

PLAINTIFF'S MOTION TO SEAL ORIGINAL COMPLAINT
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Riddell Williams P.S.
1001 FOURTH AVENUE
SUITE 4500
SEATTLE, WA 98154-1192
206.624.3600

1 To satisfy Immersion's concerns, and because the strong public policy
2 encouraging settlements and protecting the ability of private litigants to enter into
3 confidential settlement agreements outweighs any interest in disclosing the
4 specific settlement terms in the original Complaint, Microsoft respectfully requests
5 that the Court order that the original Complaint be sealed. The Amended
6 Complaint can and should remain public record.

7 II. FACTUAL BACKGROUND

8 On June 18, 2007, Microsoft filed its original Complaint in this action. In its
9 original Complaint, Microsoft referenced in paragraph 21 certain terms of a
10 settlement agreement between defendant Immersion and Sony (the
11 "Immersion/Sony Settlement Agreement"). Some of those terms had apparently
12 not been previously disclosed to the public.

13 On June 22, 2007, counsel for Microsoft received a letter from Immersion's
14 counsel objecting to the original Complaint's inclusion of these particular terms. In
15 response to Immersion's objections, Microsoft filed an Amended Complaint the
16 next business day, on Monday June 25. The Amended Complaint is identical to
17 the original Complaint, except that it omits the particular language from the
18 Immersion/Sony Settlement Agreement to which Immersion objects.

19 III. ARGUMENT AND AUTHORITY

20 While there is a presumption of public access under Local Civil Rule 5(g),
21 this presumption can be outweighed by the interests of the public and the parties
22 in protecting documents from public view. Local Rule 5(g)(1). Courts have
23 consistently recognized these public policy considerations in granting protective
24 orders to prevent disclosure of information including confidential settlement
25 agreements. *See, e.g., Phillips ex rel. Estates of Byrd v. General Motors Corp.*,
26 307 F.3d 1206, 1212 (9th Cir. 2002); *Kalinauskas v. Wong*, 151 F.R.D. 363, 365

1 (D. Nev. 1993). In this instance, the public interest favors keeping confidential
2 particular aspects of the Sony/Immersion Settlement Agreement.

3 Microsoft, as the plaintiff in this case, clearly has an interest in the
4 particulars of the settlement agreement between Immersion and Sony. To the
5 extent the public also has an interest in the Immersion/Sony settlement, its only
6 interest is in knowing that the settlement occurred and the general terms of the
7 settlement. That public interest can—and has been—protected through the more
8 general references to the settlement contained in Microsoft's Amended Complaint.

9 **IV. CONCLUSION**

10 For the foregoing reasons, Microsoft respectfully requests that the Court
11 grant this motion to seal the original Complaint. The Amended Complaint can and
12 should remain public record.

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14 DATED this 25th day of June, 2007.

15 RIDDELL WILLIAMS P.S.

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17
18 By

B. Marks-Dias

19 Paul J. Kundtz, WSBA #13548
20 Blake Marks-Dias, WSBA #28169
21 Wendy E. Lyon, WSBA #34461
22 Attorneys for Plaintiff MICROSOFT
23 CORPORATION
24
25
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