

1 The Honorable Ricardo S. Martinez
2 Noted on Motion Calendar: March 28, 2008

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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 MICROSOFT CORPORATION,

11 Plaintiff,

12 v.

13 IMMERSION CORPORATION,

14 Defendant.

No. 2:07-CV-936-RSM

**DECLARATION OF STEVE
AESCHBACHER IN SUPPORT OF
MICROSOFT'S OPPOSITION TO
IMMERSION'S MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS RESPONSIVE TO
REQUEST NOS. 53, 54 AND 71**

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16 I, Steve Aeschbacher, declare as follows:

17 1. I am Associate General Counsel for Microsoft Corporation in the
18 litigation group of its Department of Legal and Corporate Affairs. I am one of the
19 attorneys representing plaintiff Microsoft Corporation and have personal
20 knowledge of the following statements. I am a citizen of the United States, over
21 the age of 18 years, and competent to make this Declaration.

22 2. Microsoft has been in business for over 30 years.

23 3. During that time, Microsoft has been involved in hundreds of lawsuits
24 and entered into hundreds of settlement agreements in a variety of cases,
25 including cases asserting antitrust, patent, trade secret, copyright, consumer class
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DECLARATION OF STEVE AESCHBACHER IN SUPPORT OF
OPPOSITION TO MOTION TO COMPEL- (No. 2:07-936-RSM) - 1
4834-5366-0674.01
032108/1652/20363.00411

Riddell Williams P.S.
1001 FOURTH AVENUE
SUITE 4500
SEATTLE, WA 98154-1192
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1 actions, contract disputes, employment, anti-piracy, trademark, digital
2 enforcement, anti-phishing and personal injury claims.

3 4. In order to determine which settlement agreements were entered into in
4 patent infringement cases, Microsoft would have to attempt to locate whatever
5 settlement agreements it has spanning 30+ years and review them in order to
6 determine whether they involved patent infringement.

7 5. Determining which settlement agreements were entered into post-
8 verdict would be an even more arduous task. Microsoft does not maintain files of
9 settlement agreements segregated by those that were entered into pre-verdict or
10 post-verdict. Often this information cannot be determined by looking at the
11 settlement agreement itself, and thus determining what stage of litigation the
12 parties were in when they reached an agreement would require searching for,
13 gathering and reviewing other case documents.

14 6. Likewise, determining which agreements involved the payment of all or
15 part of a judgment would require a review of all settlement agreements and likely
16 other documents such as the judgment, in order to compare the amount paid
17 pursuant to the agreement with any judgment amount.

18 7. In my experience as an attorney at Microsoft for over 10 years, which
19 includes reviewing settlement agreements negotiated by my colleagues and
20 entering into settlement agreements in cases that I have been responsible for,
21 Microsoft's settlement agreements more often than not are subject to
22 confidentiality provisions, which preclude Microsoft from disclosing them or their
23 terms to others.

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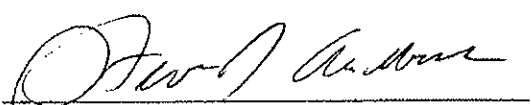
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I declare under penalty of perjury under the laws of the State of
Washington that the foregoing is true and complete to the best of my knowledge.

SIGNED this 24th day of March, 2008, at Redmond, Washington.


Steve Aeschbacher

1 **CERTIFICATE OF SERVICE**

2 I, Margaret Friedmann, declare as follows:

3 I am over 18 years of age and a citizen of the United States. I am
4 employed as a legal secretary by the law firm of Riddell Williams P.S.


5 On the date noted below, I electronically filed the foregoing document titled
6 **DECLARATION OF STEVE AESCHBACHER IN SUPPORT OF MICROSOFT'S**
7 **OPPOSITION TO IMMERSION'S MOTION TO COMPEL PRODUCTION OF**
8 **DOCUMENTS RESPONSIVE TO REQUEST NOS. 53, 54 AND 71** with the Clerk
9 of the Court using the CM/ECF system which will send notification of such filing to
10 the following counsel for Immersion Corporation:

11 Bradley S. Keller
12 Jofrey M. McWilliam
13 Byrnes & Keller LLP
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17 I declare under penalty of perjury under the laws of the State of
18 Washington that the foregoing is true and correct.

19 Executed at Seattle, Washington this 24th day of March, 2008.

20 
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22 Legal Secretary, Riddell Williams P.S.
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