The Hon. Ricardo S. Martinez 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 WESTERN DISTRICT OF WASHINGTON 9 AT SEATTLE MICROSOFT CORPORATION, a No. C07-0936RSM 10 Washington corporation, 11 PLAINTIFF'S MOTION TO FILE Plaintiff. MOTION TO COMPEL RESPONSES TO ITS SECOND REQUESTS FOR 12 PRODUCTION NOS. 2 AND 3 (AND SUPPORTING DOCUMENTS) 13 IMMERSION CORPORATION, a **UNDER SEAL** Delaware corporation, 14 NOTED ON MOTION CALENDAR: Defendant. MAY 9, 2008 15 16 I. RELIEF REQUESTED 17 Pursuant to Local Rule 5(g), plaintiff respectfully requests that the Court 18 allow plaintiff to file under seal Plaintiff's Motion to Compel Responses to Its 19 Second Requests for Production Nos. 2 and 3, along with documents supporting 20 that Motion to Compel. 21 II. GROUNDS 22 Although the parties filed a [Proposed] Stipulated Protective Order Regarding 23 Treatment by the Parties of Confidential Documents with the Court on 2/13/08, Doc. #43, 24 it was rejected by the Court (Minute Order of 3/20/08). The parties are now working to 25 26 Riddell Williams P.S. PLAINTIFF'S MOTION TO FILE MOTION TO COMPEL UNDER 1001 FOURTH AVENUE SEAL (NO. C07-936RSM) - 1 **SUITE 4500** 4845-0768-1538.01 SEATTLE, WA 98154-1192 206.624.3600 042308/1700/20363.00411

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reach agreement on the language contained in the Stipulation and resubmit it for the Court's approval.

Immersion has asserted that its licensing fees are confidential. Microsoft's motion to Compel and the Declaration of Wendy E. Lyon and exhibits thereto contain information regarding Immersion's licensing fees. Allowing plaintiff to file these documents under seal pending the parties' agreement on a form of Protective Order is appropriate.

The sealing of Microsoft's Motion to Compel and the Declaration of Wendy E. Lyon and exhibits attached thereto is authorized under Local Rule 5(g) because the facts warranting sealing overcome the presumption in favor of public access to the document. Moreover, the public's interest in accessing this Motion to Compel, Declaration of Wendy E. Lyon and exhibits attached thereto is minimal. General information related to the parties' claims can be obtained from the pleadings and motions on file. Nor do the Motion to Compel or supporting documents deal with any matters of public importance.

## III. CONCLUSION

For the foregoing reasons, plaintiff respectfully request that the Court allow Plaintiff's Motion to Compel Responses to Its Second Requests for Production Nos. 2 and 3, the Declaration of Wendy E. Lyon in support, and exhibits attached thereto to be filed under seal. An order authorizing sealing is submitted herewith.

DATED this 23<sup>rd</sup> day of April, 2008.

## RIDDELL WILLIAMS P.S.

By /s/ Wendy E. Lyon
Paul J. Kundtz, WSBA #13548
Blake Marks-Dias, WSBA #28169
Wendy E. Lyon, WSBA #34461
Attorneys for Plaintiff MICROSOFT
CORPORATION

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## **CERTIFICATE OF SERVICE**

I, Margaret Friedmann, declare as follows:

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

On the date noted below, I electronically filed the foregoing document titled PLAINTIFF'S MOTION TO FILE MOTION TO COMPEL RESPONSES TO ITS SECOND REQUESTS FOR PRODUCTION NOS. 2 AND 3 UNDER SEAL and [PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION TO FILE MOTION TO COMPEL RESPONSES TO ITS SECOND REQUESTS FOR PRODUCTION NOS. 2 AND 3 UNDER SEAL with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel for Immersion Corporation:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed at Seattle, Washington this 23rd day of April, 2008.

Murgaret Friedmann

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