

1 HONORABLE RICARDO S. MARTINEZ

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

10 MICROSOFT CORPORATION, a  
Washington corporation,

11 Plaintiff,

12 v.

13 IMMERSION CORPORATION, a  
14 Delaware corporation,

15 Defendant.

No. CV7-936RSM

**DECLARATION OF BLAKE  
MARKS-DIAS IN SUPPORT OF  
MICROSOFT'S MOTION FOR  
SUMMARY JUDGMENT TO  
DISMISS IMMERSION'S  
COUNTERCLAIM**

**NOTE ON MOTION CALENDAR:  
MAY 9, 2008**

**ORAL ARGUMENT REQUESTED**

16  
17 Blake Marks-Dias declares as follows:

18 1. I am one of the attorneys for Plaintiff Microsoft Corporation in the above-  
19 captioned action. I am over the age of 18, competent to testify, and make this declaration  
20 based upon personal knowledge.

21 2. On January 22, 2008, counsel for Microsoft and Immersion conducted a  
22 Rule 37 conference to discuss Immersion's discovery responses.

23 3. Among the topics discussed during the Rule 37 conference was Immersion's  
24 inadequate responses to discovery requests regarding its Counterclaim. Immersion  
25 maintained that it could not respond until discovery was complete, but ultimately agreed to  
26

DECL. OF BLAKE MARKS-DIAS IN SUPPORT OF MICROSOFT'S  
MOTION FOR SUMMARY JUDGMENT TO DISMISS IMMERSION'S  
COUNTERCLAIM (No. CV7-936RSM) - 1  
4848-5797-0690.01  
041708/1459/20363.00411

Riddell Williams P.S.  
1001 FOURTH AVENUE  
SUITE 4500  
SEATTLE, WA 98154-1192  
206.624.3600

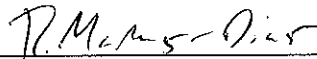
1 produce all of the evidence supporting Immersion's Counterclaim that was currently in  
2 their possession.

3 4. Beginning on March 17, 2008, Immersion produced additional documents  
4 as discussed during the Rule 37 conference. None of the documents Immersion produced  
5 in this supplemental production are related to Immersion's Counterclaim.

6 5. Attached as Exhibit 1 is a true and correct copy of my email dated March  
7 17, 2008 to David Kaplan, counsel for Immersion. This email asks whether Microsoft  
8 could expect any supplemental answers to interrogatories. To date, Immersion has not  
9 responded to this question, and has not supplemented its original interrogatory responses.

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

12 EXECUTED on April 16<sup>th</sup>, 2008, at Seattle, Washington.

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15 \_\_\_\_\_  
16 Blake Marks-Dias  
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1 **CERTIFICATE OF SERVICE**

2 The undersigned certifies that on the 17<sup>th</sup> day of April, 2008, I electronically filed  
3 the foregoing with the Clerk of the Court using the CM/ECF system which will send  
4 notification of such filing to the following:

5 **Richard M Birnholz**  
6 rbirnholz@irell.com,lwakino@irell.com,ddrescher@irell.com,dkaplan@irell.com

7 **Morgan Chu**  
8 mchu@irell.com

9 **Alan J Heinrich**  
10 aheinrich@irell.com

11 **David R Kaplan**  
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13 **Bradley S. Keller**  
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15 **Paul Joseph Kundtz**  
16 pkundtz@riddellwilliams.com,ebastien@microsoft.com,mfriedmann@riddellwillia  
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18 **Wendy E Lyon**  
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20 **Blake Edward Marks-Dias**  
21 bmarksdias@riddellwilliams.com,dhammonds@riddellwilliams.com

22 **Jofrey M McWilliam**  
23 jmcwilliam@byrneskeller.com,lyoshinaga@byrneskeller.com

24 Executed at Seattle, Washington this 17<sup>th</sup> day of April, 2008.

25 

26 Holly Rohr Tran  
Legal Secretary, Riddell Williams P.S.  
1001 Fourth Avenue Plaza, Suite 4500  
Seattle, WA 98154  
Phone: (206) 624-3600  
Fax: (206) 389-1708  
email: hrohrtran@riddellwilliams.com

**Marks-Dias, Blake**

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**From:** Marks-Dias, Blake  
**Sent:** Monday, March 17, 2008 2:32 PM  
**To:** 'Kaplan, David'  
**Cc:** Birnholz, Richard; Heinrich, Alan; Kundtz, Paul  
**Subject:** RE: MS v. Immersion

Dave,

We received today a disc with supplemental documents. Should we be expecting any supplemental answers to interrogatories?

Thanks,

Blake

-----Original Message-----  
From: Kaplan, David [mailto:DKaplan@irell.com]  
Sent: Friday, March 14, 2008 6:32 PM  
To: Marks-Dias, Blake  
Cc: Birnholz, Richard; Heinrich, Alan  
Subject: RE: MS v. Immersion

Blake,

They were sent to you today for Monday delivery.

Thanks,

Dave

-----Original Message-----  
From: Marks-Dias, Blake [mailto:bmarksdias@Riddellwilliams.com]  
Sent: Friday, March 14, 2008 6:18 PM  
To: Kaplan, David  
Subject: MS v. Immersion

Dave,

Where are Immersion's supplemental discovery responses?

Blake

.....  
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ccmailg.irell.com made the following annotations

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**EXHIBIT 1**

message and then delete it from your system. Thank you.

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