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The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MICROSOFT CORPORATION,)	
)	
Plaintiff,)	No. 2:11-cv-00134 RSM
)	
v.)	DECLARATION OF JOSEPH LIPNER
)	
TIVO INC.,)	NOTE ON MOTION CALENDAR:
)	FRIDAY, MARCH 18, 2011
Defendant.)	

I, Joseph Lipner, hereby declare as follows:

1. I am an partner at the law firm of Irell & Manella LLP, and am counsel of record for Defendant TiVo Inc. (“TiVo”) in this matter. I am admitted pro hac vice for this matter. I submit this Declaration in support of Defendant’s Motion to Stay Pursuant to 28 U.S.C. § 1659 and to Transfer Venue Pursuant to 28 U.S.C. § 1404(a). Except where stated, I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts.

2. Attached hereto as Exhibit A is a true and correct copy of Microsoft’s Opening Claim Construction Brief, filed in the matter *Microsoft Corp. v. Tivo Inc.*, Case No. 5:10-CV-00240-LHK (N.D. Cal. 2010) (the “California Action”).

DECLARATION OF JOSEPH LIPNER (No. 2:11-cv-00134 RSM) -

BYRNES • KELLER • CROMWELL LLP
38TH FLOOR
1000 SECOND AVENUE
SEATTLE, WASHINGTON 98104
(206) 622-2000

1 3. Attached hereto as Exhibit B is a true and correct copy of the Complaint of
2 Microsoft Corporation Under Section 337 of the Tariff Act of 1930, As Amended, which
3 Microsoft filed with the United States International Trade Commission on January 24, 2011.

4 4. Attached hereto as Exhibit C is a true and correct copy of the Second Declaration
5 of James Baldwin, filed by Microsoft in the matter *TiVo v. AT&T Inc., et al.*, Case No. 2:09-cv-
6 0259-DF (E.D. Tex. 2009) (the “Texas Action”).

7 5. Attached hereto as Exhibit D is a true and correct copy of Microsoft
8 Corporation’s First Supplemental Rule 26(a) Disclosures, filed by Microsoft in the Texas Action.

9 6. Attached hereto as Exhibit E is a true and correct copy of U.S. Patent No.
10 5,654,748 (the “’748 patent”), asserted by Microsoft in the California Action.

11 7. Attached hereto as Exhibit F is a true and correct copy of U.S. Patent No.
12 5,585,838 (the “’838 patent”), asserted by Microsoft in the instant suit.

13 8. Attached hereto as Exhibit G is a true and correct copy of U.S. Patent No.
14 4,706,121, listed by TiVo as a prior art reference to the ’748 patent. Patrick Young is named as
15 an inventor. Our research indicates that Mr. Young appears to live in the Northern District of
16 California.

17 9. Attached hereto as Exhibit H is a true and correct copy of U.S. Patent No.
18 5,479,268, listed by TiVo as a prior art reference to the ’748 patent. Patrick Young is named as
19 an inventor. David J. Anderson, Allan Ebright, Michael Faber, and John Roop are also named as
20 inventors. Our research indicates that each of these individuals appears to live in the Northern
21 District of California.

22 10. Attached hereto as Exhibit I is a true and correct copy of U.S. Patent No.
23 5,583,560, listed by TiVo as a prior art reference to the ’748 patent.

24 11. Attached hereto as Exhibit J is a true and correct copy of U.S. Patent No.
25 5,594,509, listed by TiVo as a prior art reference to the ’748 patent. Our research indicates that
26 eight of the nine inventors listed on Patent Nos. 5,583,560 and 5,594,509 appear to reside in the

1 Northern District of California: Fabrice Florin, Michael Buettner, Glenn Corey, Janey Fritsche,
2 Peter Maresca, Peter Miller, Stuart Sharpe, and Nick West.

3 12. Attached hereto as Exhibit K is a true and correct copy of U.S. Patent No.
4 5,805,804, listed by TiVo as a prior art reference to the '748 patent.

5 13. Attached hereto as Exhibit L is a true and correct copy of Plaintiff Microsoft
6 Corporations' Disclosure of Asserted Claims and Infringement Contentions in the California
7 Action.

8 14. Attached hereto as Exhibit M is a true and correct copy of U.S. Patent No.
9 6,008,803.

10 15. Attached hereto as Exhibit N is a true and correct copy of U.S. Patent No.
11 5,731,844.

12 16. Attached hereto as Exhibit O is a true and correct copy of U.S. Patent No.
13 5,648,824.

14 17. Attached hereto as Exhibit P is a true and correct copy of U.S. District Court –
15 Judicial Caseload Profiles available at <http://www.uscourts.gov/cgi-bin/cmsd2010Sep.pl>.

16 18. I am informed that Microsoft has begun reviewing TiVo's source code for the
17 accused products in connection with the Texas Action and the California Action in law offices in
18 the Northern District of California.

19 I declare under penalty of perjury under the laws of the United States of America that the
20 foregoing is true and correct.

21 DATED this 3rd day of March, 2011 at Los Angeles, California.

22 By /s/ Joseph Lipner

23 Joseph Lipner
24 CA State Bar No. 155735
25 1800 Avenue of the Stars, Suite 900
26 Los Angeles, CA 90067
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1 **CERTIFICATE OF SERVICE**

2 The undersigned attorney certifies that on the 3rd day of March, 2011, 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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