

The Honorable James L. Robart

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION, a Washington  
corporation,

Plaintiff,

v.

MOTOROLA, INC., and MOTOROLA  
MOBILITY LLC, and GENERAL  
INSTRUMENT CORPORATION,

Defendants.

CASE NO. C10-1823-JLR

DECLARATION OF ANDREA PALLIOS  
ROBERTS IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
MICROSOFT'S MOTIONS IN LIMINE

**NOTED ON MOTION CALENDAR:  
FRIDAY, AUGUST 9, 2013**

1 I, Andrea Pallios Roberts, declare as follows:

2 1. I am an attorney at the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,  
3 counsel of record for Defendants in this matter. I have personal knowledge of the facts stated  
4 herein and if called to testify could and would competently testify thereto.

5 2. Attached as Exhibit A is a true and correct copy of cited excerpts of the deposition  
6 of K. McNeill Taylor, Jr., dated March 20, 2012.

7 3. Attached as Exhibit B is a true and correct copy of cited excerpts of the deposition  
8 of Horacio E. Gutierrez, Vol. 2, dated May 24, 2013.

9 4. Attached as Exhibit C is a true and correct copy of cited excerpts of the deposition  
10 of Kirk W. Dailey dated July 12, 2012

11 5. Attached as Exhibit D is a true and correct copy of cited excerpts of the deposition  
12 of Brian Blasius dated May 14, 2013.

13 6. Attached as Exhibit E is a true and correct copy of cited excerpts of the deposition  
14 of Kirk Dailey taken In the Matter of Certain Gaming and Entertainment Consoles, Related  
15 Software, and Components Thereof, dated September 2, 2011.

16 7. Attached as Exhibit F is a true and correct copy of cited excerpts of trial testimony  
17 provided by Kirk Dailey on November 20, 2012.

18 8. Attached as Exhibit G is a true and correct copy of Motorola's written response to  
19 Topic 11 of Microsoft's Rule 30(b)(6) Notice to Motorola, which sought: "Each license that  
20 Motorola has granted to any patent that Motorola contends is infringed by Microsoft in connection  
21 with its use of the 802.11 or H.264 standards, the royalty rate (or other amount) that is paid to  
22 Motorola under that license, how and by whom the royalty rate was negotiated, the portion of the  
23 royalty rate (or other amount) that is attributable to the patent(s) that Motorola contends are  
24 infringed by Microsoft in connection with its use of the 802.11 or H.264 standards, the portion of  
25 the royalty rate (or other amount) that is attributable to other patents, whether the license was  
26 entered into in connection with a RAND obligation, whether and to what extent the licensee cross-

1 licensed patents to Motorola in conjunction with the license, and the amount and timing of  
2 payments that have been made under the license.”

3 9. Attached as Exhibit H is a true and correct copy of cited excerpts of the deposition  
4 of Horacio E. Gutierrez, Vol. 1, dated April 4, 2012.

5 10. Attached as Exhibit I a true and correct copy of email correspondence between  
6 Ellen S. Robbins, Kevin Post and David C. Giardina dated March 21, 2012.

7 11. Attached as Exhibit J a true and correct copy of Defendant Motorola Mobility,  
8 Inc.’s Notice of Deposition of Microsoft Corporation dated March 6, 2012.

9 12. Attached as Exhibit K is a true and correct copy of the Telephone Conference  
10 Hearing Transcript, dated June 25, 2013.

11 13. Attached as Exhibit L a true and correct copy of cited excerpts of the deposition of  
12 Allen Lo, dated July 12, 2012.

13 14. Attached as Exhibit M is a true and correct copy of cited excerpts of the Motion  
14 Hearing Transcript, dated July 31, 2013.

15 15. Attached as Exhibit N is a true and correct copy of a Contribution, dated August  
16 31, 2005, from Microsoft to the SD Card Association, promising to license patents, including U.S.  
17 Patent Nos. 5,579,517 and 5,758,352, on reasonable and non-discriminatory terms, bearing  
18 production numbers MS-MOTO-1823\_00002370168-70.

19 16. Attached as Exhibit O is a true and correct copy of “Microsoft Makes Strategic  
20 Changes in Technology and Business Practices to Expand Interoperability” dated February 21,  
21 2008, *available at* <http://www.microsoft.com/en-us/news/press/2008/feb08/02-21expand>  
22 [interoperabilitypr.aspx](http://www.microsoft.com/en-us/news/press/2008/feb08/02-21expand).

23 17. Attached as Exhibit P a true and correct copy of correspondence between Arthur  
24 W. Harrigan, Jr., Ralph Palumbo, and Jesse J. Jenner, dated April 4, 2012.

25 18. Attached as Exhibit Q a true and correct copy of correspondence between Ralph  
26 Palumbo and Arthur W. Harrigan, Jr., dated April 4, 2012.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

EXECUTED this 5th day of August, 2013 at Redwood Shores, California.



---

Andrea Pallios Roberts

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Arthur W. Harrigan, Jr., Esq.  
Christopher T. Wion, Esq.  
Shane P. Cramer, Esq.  
Calfo Harrigan Leyh & Eakes LLP  
*arthurh@calfoharrigan.com*  
*chrisw@calfoharrigan.com*  
*shanec@calfoharrigan.com*

Richard A. Cederoth, Esq.  
Brian R. Nester, Esq.  
David T. Pritikin, Esq.  
Douglas I. Lewis, Esq.  
John W. McBride, Esq.  
William H. Baumgartner, Jr., Esq.  
David C. Giardina, Esq.  
Carter G. Phillips, Esq.  
Constantine L. Trela, Jr., Esq.  
Ellen S. Robbins, Esq.  
Nathaniel C. Love, Esq.  
Sidley Austin LLP  
*rcederoth@sidley.com*  
*bnester@sidley.com*  
*dpritikin@sidley.com*  
*dilewis@sidley.com*  
*jwmcbride@sidley.com*  
*wbaumgartner@sidley.com*  
*dgiardina@sidley.com*  
*cphillips@sidley.com*  
*ctrela@sidley.com*  
*erobbins@sidley.com*  
*nlove@sidley.com*

T. Andrew Culbert, Esq.  
David E. Killough, Esq.  
Microsoft Corp.  
*andycu@microsoft.com*  
*davkill@microsoft.com*

DATED this 5th day of August, 2013.

*/s/ Marcia A. Ripley*  
\_\_\_\_\_  
Marcia A. Ripley

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26