

The Honorable James L. Robart

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

MICROSOFT CORPORATION, a Washington  
corporation,

Plaintiff,

v.

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

Defendants.

CASE NO. C10-1823-JLR

DECLARATION OF BRIAN BLASIOUS  
IN SUPPORT OF DEFENDANTS'  
MOTION TO SEAL DOCUMENTS AND  
TRIAL TESTIMONY AND EXCLUDE  
UNAUTHORIZED PERSONS FROM  
THE COURTROOM DURING  
TESTIMONY REGARDING TRADE  
SECRETS

**NOTED ON MOTION CALENDAR:  
Friday, November 9, 2012**

1 I, Brian C. Blasius, declare as follows:

2 1. I am currently Patent Licensing Manager at Google Inc. Until September of 2012,  
3 I was Director, Intellectual Property Licensing, at Motorola Mobility LLC, formerly known as  
4 Motorola Mobility, Inc. Prior to the January 4, 2011 separation of Motorola Mobility, Inc. from  
5 Motorola, Inc., I held the same role in the Mobile Devices and Home business segments of  
6 Motorola, Inc. ("Motorola").

7 2. I submit this declaration in support of Defendants' Motion to Seal Documents and  
8 Trial Testimony and Exclude Unauthorized Persons from the Courtroom during Testimony  
9 Regarding Trade Secrets, submitted concurrently herewith. I have personal knowledge of the facts  
10 set forth in this Declaration and, if called as a witness, could and would competently testify to  
11 them.

12 3. As Director, Intellectual Property Licensing for Motorola, my primary  
13 responsibilities included negotiating Motorola's patent licenses. I have been involved in the  
14 negotiation of numerous patent license agreements on behalf of Motorola and am currently  
15 involved in active licensing negotiations with Motorola's competitors on Motorola's behalf. I am  
16 thus intimately familiar with Motorola's patent licensing history, Motorola's intellectual property  
17 licenses and Motorola's licensing practices, including those concerning confidentiality, as well as  
18 the tactics and positions that Motorola has seen in its licensing negotiations. I am also familiar  
19 with the types of information contained in patent licenses (including in Motorola's patent  
20 licenses), and with how that information could be used by competitors and prospective negotiation  
21 counterparties if disclosed publically.

22 4. I understand that the Court has scheduled a trial in this matter, beginning on  
23 November 13, 2012, and that the Court intends to consider at least the RAND rate for a license  
24 between Microsoft and Motorola for Motorola's standard essential patents for the 802.11 and  
25 H.264 standards.

1 **Motorola's Licenses and Licensing Negotiations**

2 5. I understand that there is a high likelihood that at this trial the parties will seek to  
3 introduce into evidence numerous licenses between the parties and various third parties, or  
4 between third parties and patent pools, and will seek testimony from both fact and expert  
5 witnesses about various licensing terms in those agreements. I understand that the proposed list of  
6 exhibits submitted by the parties includes dozens of Motorola licenses with non-parties to this  
7 litigation, as well as licenses between third parties and patent pools. I am familiar with the patent  
8 licenses on the exhibit list between Motorola and non-parties to this litigation, which are  
9 summarized in Exhibit 3334. While I am not personally familiar with the specific licenses entered  
10 into between third parties and patent pools that are at issue in this case, I am familiar with the  
11 general terms and conditions in those agreements.

12 6. I understand that there is also a high likelihood that the parties will seek to  
13 introduce evidence regarding highly confidential licensing negotiations between Motorola and  
14 prospective licensees, including those with which Motorola ultimately reached licensing  
15 agreements. I am familiar with Motorola's negotiations with prospective licensees, and in  
16 particular with the materials used in negotiations with Option NV, HTC, Apple, and Samsung,  
17 which are included on the list of proposed exhibits as Exhibits 9 and 3162-3164.

18 7. The terms of Motorola's patent licenses are not known to the public.

19 8. Even within Motorola, access to confidential information regarding licensing terms  
20 and conditions is restricted. The employees in Motorola's licensing department understand the  
21 extremely sensitive nature of such information, and understand their duty to not disclose the terms  
22 of these agreements. These agreements are rarely, if ever, shared outside the legal and licensing  
23 departments.

24 9. Public disclosure of the terms of Motorola's licenses, settlements, and acquisitions  
25 would cause significant harm to Motorola by negatively affecting Motorola's future licenses,  
26 settlements, and acquisitions. Competitors and potential counterparties to licensing, settlement and

1 acquisition agreements would gain an unfair insight into Motorola's business strategies, licensing  
2 strategies, prior royalty grants, negotiation tactics, and cost/benefit analyses. Using their  
3 knowledge of the precise substantive and financial terms of previously nonpublic agreements, they  
4 would be able to calibrate their negotiation strategies with Motorola, thus creating a negotiating  
5 imbalance and unfair advantage.

6 10. Similarly, public disclosure of the confidential negotiations between Motorola and  
7 prospective licensees would similarly cause significant harm to Motorola by negatively affecting  
8 Motorola's future licenses, settlements, and acquisitions. Competitors and potential counterparties  
9 to licensing, settlement and acquisition agreements would gain an unfair insight into Motorola's  
10 business strategies, licensing strategies, negotiation tactics, and cost/benefit analyses. Using their  
11 knowledge of Motorola's negotiating points, they would be able to calibrate their negotiation  
12 strategies with Motorola, thus creating a negotiating imbalance and unfair advantage.

13 11. For the same reasons, public disclosure of Exhibit 9, a letter from Motorola to  
14 Option NV, and Exhibits 3162-3164, the presentations used during negotiations with HTC, Apple,  
15 and Samsung, would similarly cause significant harm to those third parties.

16 12. Motorola regards the terms of agreements with other licensing parties as highly  
17 sensitive, confidential information. One reason for this, among other reasons, is that those terms  
18 reflect Motorola's valuation of other parties' intellectual property or Motorola's valuation of  
19 particular license terms. If Motorola did not maintain that confidentiality, negotiating parties  
20 would attempt to utilize this information to increase their leverage in future negotiations or stall or  
21 sidetrack such negotiations. The portfolios held by previously licensed parties and the terms that  
22 those previously-licensed parties received, are negotiated under different market conditions.  
23 Indeed, to my knowledge, Motorola is engaged in ongoing licensing negotiations with several  
24 competitor companies, and the public disclosure of information in Motorola's licensing  
25 agreements would be harmful to Motorola's licensing program. Indeed, should third parties have  
26

1 access to this information without Motorola having similar access, an asymmetry of information  
2 would exist and negotiations would be unbalanced.

3 13. Motorola's licensing agreements are also generally the subject of nondisclosure  
4 agreements and are highly confidential to the third parties that signed those agreements with  
5 Motorola. Those third parties would likely consider public disclosure of information about these  
6 license agreements to be extremely harmful to them.

7 14. The need for confidentiality extends to the summary of Motorola's licenses,  
8 Exhibit 3334. Public disclosure of this summary information would have the same detrimental  
9 effect on Motorola as would have the distribution of the underlying data.

### 10 **Third Party Licenses with Patent Pools**

11 15. While I am not personally familiar with the terms of the licenses on the proposed  
12 exhibit list between third parties and patent pools, I understand that those licenses have been  
13 produced in this case subject to high confidentiality, and that, like the terms of Motorola's  
14 licenses, the terms of those licenses are highly confidential.

15 16. For the same reasons that public disclosure of the terms of Motorola's licenses,  
16 settlements, and acquisitions would cause significant harm to Motorola by negatively affecting  
17 Motorola's future licenses, settlements, and acquisitions, public disclosure of the terms of these  
18 third party licenses with patent pools may cause significant harm to the third parties.

### 19 **Past and Projected Sales and Revenue Data**

20 17. I understand that there is also a high likelihood that at this trial the parties will seek  
21 to introduce evidence regarding both highly confidential past sales and revenue data and highly  
22 confidential future sales and revenue projections for Motorola and Microsoft products.

23 18. Disclosure of this evidence, and in particular disclosure of the parties' sales and  
24 revenue projections, would have the potential to lead to competitive harm by creating an  
25 asymmetry of information between the parties and competitors, whose sales and revenue results  
26 and projections are not public.



**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:

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DATED this 29th day of October, 2012.

*/s/ Marcia A. Ripley*

Marcia A. Ripley