

The Honorable James L. Robart

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MICROSOFT CORPORATION, a Washington
corporation,

Plaintiff,

v.

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

Defendant.

NO. C10-1823-JLR

DECLARATION OF JOHN A. TONDINI
RE KING DECLARATION SIGNATURE

John A. Tondini declares as follows:

1. I am one of the attorneys representing International Business Machines Corp. (“IBM”) in this matter. The following is true and correct and based upon my own personal knowledge.

2. Kenneth King, the declarant for IBM’s motion, resides in Ridgefield Connecticut. On October 29, 2012, IBM had its employees work from home because of increasingly serious weather approaching the east coast. Mr. King reviewed and signed the declaration in support of today’s motion. Just minutes after signing, he reported to me that his power went out. He could not scan a copy. From his report and others, power may not be restored for days. Attached to my declaration is a true and correct copy of his email message reporting that he reviewed and signed the declaration just before the power failure. Also attached is a smart phone photo he was

1 able to send with a picture of the signature page.

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

4 DATED in Seattle, Washington, this 29th day of October, 2012.

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6 /s/ John A. Tondini
7 John A. Tondini
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CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 29th day of October, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel on record in the matter.

/s/ John A. Tondini
Byrnes Keller Cromwell LLP
1000 Second Avenue, 38th Floor
Seattle, WA 98104
Telephone: (206) 622-2000
Facsimile: (206) 622-2522
jtondini@byrneskeller.com

Tondini, John

Subject: FW: Microsoft v. Motorola: Declaration
Attachments: pic11128.gif

-----Original Message-----

From: Ken King [<mailto:kking@us.ibm.com>]

Sent: Monday, October 29, 2012 2:12 PM

To: Frank Sedlarcik

Cc: Tondini, John

Subject: Re: Microsoft v. Motorola: Declaration

Bad news. I printed and signed it. Then my power and phones went out about 2 minutes later. So I can't fax or PDF it. Might not be until Wednesday since they are telling us to stay home tomorrow as well.....and power could be out until then.

Sent from Blackberry

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DAVID in *King's* agreement, this 29th day of October, 2012.

Kenneth S. King
Kenneth S. King