

The Honorable James L. Robart

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SRC Labs, LLC, et al.,

Plaintiffs,

No. 2:18-cv-00321-JLR

v.

Microsoft Corporation,

Defendant.

DECLARATION OF BRANDON
FREEMAN IN OPPOSITION TO
DEFENDANT’S MOTION TO STAY
CASE PENDING *INTER PARTES*
REVIEW

Brandon Freeman, under penalty of perjury under the laws of the State of Washington, declares that the following is true and correct:

1. I am President and Manager of SRC Labs, LLC (“SRC Labs”) and Chairman of DirectStream, LLC (“DirectStream”). DirectStream is the operating company that interfaces with customers and government agencies to develop technology and provides platform computer services to government contractors and clients in the private sector. SRC Labs is a licensing company. DirectStream and SRC Labs are sister companies, which are both owned by FG-SRC, LLC. They operate in tandem. FG-SRC is responsible for the management and funding of both SRC Labs and DirectStream. Financial burdens on SRC Labs directly affects DirectStream’s ability to fund research and development and operations. FG-SRC’s capital is limited.

DECLARATION OF BRANDON FREEMAN IN OPPOSITION TO
DEFENDANT’S MOTION TO STAY CASE PENDING INTER
PARTES REVIEW (2:18-cv-00321-JLR) - 1

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 2. SRC Labs entered into an exclusive license agreement with the Saint Regis
2 Mohawk Tribe that gives SRC Labs a right to sublicense the patents in suit.

3 3. DirectStream is a small emerging company. Prior to 2016, DirectStream was
4 known as SRC Computers. Its revenue stream since 2002 has been approximately \$30 million
5 dollars. SRC Computers and DirectStream have spent over \$100 million on research and
6 development related to the patents-at-issue. It has developed FPGA (Field Programmable Gate
7 Arrays) computing services technology and provides FPGA platform computing services to its
8 customers.
9

10 4. DirectStream is a competitor of Microsoft, to the extent any small emerging
11 company can compete with the largest computer software company in the world. Both
12 DirectStream and Microsoft provide FPGA-based reconfigurable computing hardware and
13 services to companies.
14

15 5. Specifically, Microsoft is using infringing FPGA-based reconfigurable computing
16 technology in its datacenters that power its Azure cloud services. Microsoft's clients refactor
17 and reconfigure their networks and applications to work with Microsoft's cloud computing
18 technology. For example, if a global payment network adopts Microsoft's cloud computing
19 services for its clients to access its network and if Microsoft is allowed to continue to use
20 Plaintiffs' patented technology, DirectStream and Plaintiffs will be irreparably harmed because
21 potential customers of DirectStream, such as a global payment network, will already have
22 refactored and configured their systems and applications to work with Microsoft's cloud
23 computing services, and will not change their networks to adapt to DirectStream's platform.
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KELLER ROHRBACK L.L.P.
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1 6. Similarly, companies use the FPGA technology for processing machine learning
2 models, and use Microsoft's Azure cloud services for deploying machine learning models for
3 real-time artificial intelligence. These same companies are potential customers of DirectStream.

4 7. Both Microsoft and DirectStream provide computing services to the Department
5 of Defense and are competitors for government contracts requiring FPGA technology.
6 DirectStream provides FPGA platform computing services to the Department of Defense and the
7 Intelligence Community, including the National Security Agency since 2002. DirectStream has
8 had services and system contracts with the U.S. Airforce, U.S. Army, and U.S. Navy since 2006.
9 Microsoft uses FPGA technology to provide cloud computing service to the Department of
10 Defense and the U.S. Navy through its Azure product.

11 8. DirectStream currently provides its FPGA-based reconfigurable cloud computing
12 services to private sector companies, such as Lockheed Martin and Boon Logic. Microsoft uses
13 FPGA technology to provide cloud computing services to the private sector through its Azure
14 product. Thus, DirectStream and Microsoft are competitors in providing cloud computing
15 services to private customers using FPGA technology.

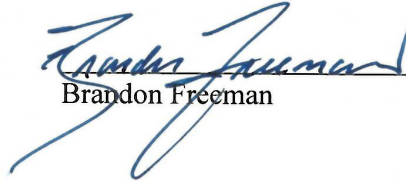
16 9. DirectStream will continue to experience a loss of goodwill and market share if
17 Microsoft is allowed to continue infringing Plaintiffs' patents to compete with DirectStream.
18 Microsoft's infringe and delay strategy – filing of serial IPRs, appeals and other actions in the
19 USPTO, such as post-grant reviews and interferences – may force DirectStream out of business.
20 SRC Labs has already received estimates that the cost to defend the IPRs Microsoft has currently
21 filed will exceed \$700,000 just to get preliminary responses filed and basic pre-hearing
22 discovery.

1 10. As a small company, DirectStream is reliant upon access to capital to fund its
2 contracts and continued operations. If it is not able to exclusively use its patents on the FPGA
3 technology, the company is less valuable, and may be unable to secure adequate financing to
4 fulfill its contracts.

5
6 11. Based on the foregoing, I believe a stay in this case will erode DirectStream's
7 market share and goodwill and could possibly destroy the company.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed this 25th day of October, 2018 in Dallas, TX.

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12 _____
13 Brandon Freeman

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KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of October, 2018, 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 of record.

s/Mark A. Griffin
Mark A. Griffin, WSBA #16296

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KELLER ROHRBACK L.L.P.
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FACSIMILE: (206) 623-3384