

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

SRC Labs, LLC, & Saint Regis Mohawk  
Tribe,  
*Plaintiffs,*

v.

Microsoft Corporation,  
*Defendant.*

Civil Action No. 2:18-cv-321-JLR

**DECLARATION OF KATHERINE ZIMMERMAN**

I, Katherine Zimmerman, state and declare as follows:

1. I am a Scholarly Communications and Licensing Librarian at the Massachusetts Institute of Technology (“MIT”) Libraries, 77 Massachusetts Avenue, Building 14E-210, Cambridge, Massachusetts 02139.
2. I am over 18 years of age and am competent to make this Declaration. I make this Declaration based on my own personal knowledge, based on my knowledge and review of the business records and practices of the MIT Libraries, based on conversations with other library staff, and based on the notes and records of Marilyn McSweeney who prepared Declarations until her retirement in 2016.
3. I have been employed at MIT since 2016.
4. Through the actions described in paragraph 2, I have become knowledgeable about the MIT Libraries’ normal business practices with respect to how MIT receives, catalogs, indexes, shelves, and makes available to the public books and periodicals.

5. Attached as Exhibit A to this Declaration is a true and accurate copy of the catalog record from the MIT Libraries' online catalog system (known as the Barton Catalog) for the book titled "Splash 2: FPGAs in a Custom Computing Machine" edited by Duncan A. Buell, Jeffrey M. Arnold, and Walter J. Kleinfeld, and published by IEEE Computer Society Press ("Splash 2"). This is a record that MIT maintains in the ordinary course of its regular activities.
6. Attached as Exhibit B to this Declaration is a true and accurate copy of the catalog record in MARC tags format from the Barton Catalog for Splash 2. This is a record that MIT maintains in the ordinary course of its regular activities.
7. Attached as Exhibit C to this Declaration is a true and accurate copy of the cover, title pages, copyright page, table of contents and back cover of Splash 2. Splash 2, which totals 205 pages, is available in its entirety from the MIT Libraries. Splash 2 is a record that MIT maintains in the ordinary course of its regular activities.
8. Splash 2 has an MIT Libraries date stamp of "AUG 8 1996," indicating that the MIT Libraries received this book on August 8, 1996.
9. Splash 2 has a cataloguing date of October 3, 1996 (shown as 961003 in line number 910 of Exhibit B), indicating it was entered into OCLC, the national bibliographic utility in which MIT does its cataloging, on October 3, 1996.
10. One to three business days after a book receives a cataloguing date, a record of its existence would have been visible in the OCLC database and the Barton Catalog.
11. The Barton Catalog is available online to any user of the World Wide Web. Prior to the creation of the Web, access to the records in the Barton Catalog was limited

- to people who were on the MIT campus or otherwise had access to the OCLC database.
12. Based on the practices in place at the time, Splash 2 would have appeared in a relevant Barton Catalog search conducted one to three business days after October 3, 1996.
  13. From June 1995 until July 2001, the Barton Catalog allowed for keyword searching for words in the book title and subject headings. From July 2001 to the present, the Barton Catalog has allowed keyword searching for all fields in the Barton Catalog record. Exact author and title searching has always been available.
  14. After the cataloguing date, a book undergoes a process of being labeled and moved to a shelf of the MIT Libraries. This process typically takes one to two weeks. According to MIT's normal business practice, Splash 2 would have been displayed on a shelf of the MIT Libraries no later than October 18, 1996.
  15. Once a book is on a shelf of the MIT Libraries it is available to be viewed within the MIT Libraries by any member of the public or requested via Interlibrary Loan.
  16. To the best of my knowledge and that of current MIT employees, unless stated otherwise, the above statements are descriptions of normal business practices at the MIT Libraries from at least the beginning of 1995 and through the present.

I declare under penalty of perjury that the foregoing is true and correct. Executed on  
June 22, 2018, at Cambridge, Massachusetts.

  
KATHERINE ZIMMERMAN

# EXHIBIT A



# Explore Litigation Insights

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