

The Honorable James L. Robart

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION,  
  
Plaintiff,  
  
v.  
  
THE UNITED STATES DEPARTMENT OF  
JUSTICE, and LORETTA LYNCH, in her  
official capacity as Attorney General of the  
United States,  
  
Defendants.

No. 16-cv-00538 - JLR  
  
STIPULATION AND  
[PROPOSED] ORDER  
REGARDING AMICUS CURIAE  
BRIEFING

*Noted for Consideration:*  
August 18, 2016

**STIPULATION**

Plaintiff Microsoft Corporation (“Microsoft”) and defendants The United States Department of Justice and Loretta Lynch, in her official capacity as Attorney General (collectively, “Federal Defendants”), by and through their attorneys of record, stipulate to the Court’s entry of the proposed Order set forth below, providing for the Clerk to accept amicus curiae briefs submitted by lawyers admitted in this District.

In support of this request, the parties represent the following to the Court:

1. Microsoft filed this action on April 14, 2016.
2. On June 14, 2016, the Court entered an Order [Dkt. 26] that, among other things, approved a stipulated briefing schedule for an anticipated Motion to Dismiss. As part of the stipulated briefing schedule, the parties agreed “that, subject to the Court’s approval, any

1 potential amici should seek leave from the Court to file a brief by September 2, 2016, i.e., by  
2 one week after the filing of Microsoft's opposition to any motion to dismiss." Dkt. 26 ¶ 5. At  
3 that time, however, the parties took "no position ... as to whether the Court should grant leave  
4 to any proposed amicus curiae." *Id.*

5 3. On July 22, 2016, the Federal Defendants filed their Motion to Dismiss Pursuant  
6 to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). *See* Dkt. 38. Microsoft's opposition to that Motion is  
7 due on or before August 26, 2016, and the Federal Defendants' reply is due on or before  
8 September 23, 2016.

9 4. On August 15, 2016, the Court entered an Order [Dkt. 40] directing "that the  
10 page limit for all motions or briefs filed by *amici* in this matter shall be half that of the page  
11 limits for the corresponding motion or brief filed by a party. *See* Local Rules W.D. Wash. LCR  
12 7(e)."

13 5. The parties anticipate that several persons, entities, and/or organizations will  
14 wish to file amicus curiae briefs in connection with the Federal Defendants' Motion to Dismiss.  
15 In light of that fact, and in light of the Court's Order, the parties have conferred and agree that,  
16 subject to the Court's approval, they will consent to any amicus curiae brief filed in connection  
17 with the Federal Defendants' Motion to Dismiss, provided the brief:

18 (a) is timely filed on or before September 2, 2016;

19 (b) complies with the page limits set forth in the Court's Order [Dkt. 40]; and

20 (c) is signed by an attorney admitted to practice before this Court.

21 The parties further stipulate and agree that, subject to the Court's approval, a brief satisfying  
22 the criteria set forth in the previous sentence may be filed without the need for a separate  
23 application or motion seeking the Court's leave for filing.

24 DATED this 18<sup>th</sup> day of August, 2016.

25 Davis Wright Tremaine LLP  
26 Attorneys for Microsoft Corporation

27 By s/ Stephen M. Rummage  
Stephen M. Rummage, WSBA #11168

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Ambika K. Doran, WSBA #38237  
1201 Third Avenue, Suite 2200  
Seattle, WA 98101-3045  
Phone: 206-622-3150, Fax: 206-757-7700  
E-mail: steverummage@dwt.com  
E-mail: ambikadoran@dwt.com

Laura Handman\*  
Davis Wright Tremaine LLP  
1919 Pennsylvania Ave NW #800,  
Washington, DC 20006  
Telephone: (202) 973-4200  
Fax: (202) 973-4429  
E-mail: laurahandman@dwt.com

James M. Garland\*  
Alexander A. Berengaut\*  
Katharine R. Goodloe\*  
Covington and Burling LLP  
One CityCenter  
850 10th St., N.W.  
Washington, DC 20001  
Tel: (202) 662-6000  
Fax: (202) 662-6291  
E-mail: jgarland@cov.com,  
aberengaut@cov.com, kgoodloe@cov.com

Bradford L. Smith  
David M. Howard  
Jonathan Palmer  
Microsoft Corporation  
One Microsoft Way  
Redmond, WA 98052

\* Admitted pro hac vice

*Attorneys for Microsoft Corporation*

BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General  
ANNETTE L. HAYES  
United States Attorney  
KERRY J. KEEFE  
Civil Chief, Assistant United States Attorney  
ANTHONY J. COPPOLINO  
Deputy Director, Federal Programs Branch

By s/ Eric J. Soskin  
Eric J. Soskin, PA Bar #200663  
Jennie Kneeder, DC Bar #500261  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

Tel: (202) 353-0533  
Fax: (202) 616-8470  
E-mail: Eric.Soskin@usdoj.gov  
E-mail: jennie.l.kneeder@usdoj.gov

*Attorneys for Federal Defendants*

**ORDER**

Based on the foregoing Stipulation, the Court ORDERS that the foregoing stipulation is approved. The Clerk shall accept for filing any amicus curiae brief filed in connection with the pending Motion to Dismiss [Dkt. 38], provided the brief (a) is timely filed on or before September 2, 2016; (b) complies with the page limits set forth in the Court’s Order [Dkt. 40]; and (c) is signed by an attorney admitted to practice before this Court.

IT IS SO ORDERED.

DATED this \_\_\_\_ day of August, 2016.

\_\_\_\_\_  
James L. Robart  
United States District Judge

Presented by:  
Davis Wright Tremaine LLP  
Attorneys for Microsoft Corporation

By s/ Stephen M. Rummage  
Stephen M. Rummage, WSBA #11168  
Ambika K. Doran, WSBA #38237  
E-mail: steverummage@dwt.com  
E-mail: ambikadoran@dwt.com

CERTIFICATE OF SERVICE

1 I hereby certify that on August 18, 2016, I electronically filed the foregoing with the  
2 Clerk of the Court using the CM/ECF system, which will send notification of such filing to  
3 those attorneys of record registered on the CM/ECF system. I further hereby certify that I have  
4 mailed by United States Postal Service the document to the following non CM/ECF participant:  
5

6 Stephen P. Wallace  
7 1116 Sheffer Road – Apt. F  
8 Aurora, IL 60505

9 DATED this 18<sup>th</sup> day of August, 2016.

10 Davis Wright Tremaine LLP  
11 *Attorneys for Microsoft Corporation*

12 By s/ Stephen M. Rummage  
13 Stephen M. Rummage, WSBA #11168  
14 1201 Third Avenue, Suite 2200  
15 Seattle, Washington 98101-3045  
16 Telephone: (206) 622-3150  
17 Fax: (206) 757-7700  
18 E-mail: steverummage@dwt.com  
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