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

REALD SPARK, LLC,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

NO.

**COMPLAINT FOR BREACH OF
CONTRACT, THEFT OF TRADE
SECRETS, AND PATENT
INFRINGEMENT**

JURY DEMANDED

Plaintiff RealD Spark, LLC (“RealD” or “Plaintiff”) files this Original Complaint against Defendant Microsoft Corporation (“Microsoft” or “Defendant”) and hereby alleges as follows:

I. SUMMARY OF THE ACTION

1. This is a breach of contract, theft of trade secrets, and patent infringement suit relating to Microsoft’s unauthorized and unlicensed use of patented and/or proprietary RealD technology in its products. Microsoft’s accused devices (“the Accused Products”) include the Microsoft Surface product line, including the Microsoft Surface Pro X, certain Windows 10 (Build 20175 and later) and Windows 11 products, and any other Microsoft products that incorporate its “Eye contact” correction feature.

II. PARTIES

Plaintiff RealD Spark, LLC

2. Plaintiff RealD Spark, LLC (“RealD”) is a private company incorporated in Delaware with its principal place of business at 1930 Central Avenue, Suite A-2, Boulder, Colorado 80301.

3. In October 2016, RealD spun out of RealD Inc. to focus on consumer display technology. For almost two decades, RealD Inc. has been the creator of three-dimensional (“3D”) imaging technologies for premium theater experiences. These technologies include both new equipment—3D glasses, projectors, and screens necessary for optimum 3D viewing—as well as new software that helps filmmakers create the immersive, 3D storytelling watched by moviegoers around the world. See <https://www.reald.com/realdcinema> (last visited July 5, 2022); <https://variety.com/2019/film/news/reald-premium-cinema-options-1203372287/> (last visited July 5, 2022). RealD Inc.’s partnerships with AMC Theatres and Cinemark have made its technology a staple of 3D cinema, with more than 30,000 installed screens in 75 countries. <https://www.reald.com/news/reald-and-cinemark-renew-3d-agreement-through-2022> (last visited July 5, 2022). Over two billion people have watched a RealD Inc. 3D movie.

4. RealD Inc.’s efforts to create revolutionary visual experiences are not limited to its cinematic origins. For instance, NASA used RealD Inc.’s 3D technologies to pilot the Mars Rover. <https://www.businesswire.com/news/home/20110215005554/en/Oakley-3D-Glasses-Gain-RealD%C2%AE-Certification> (last visited July 5, 2022). RealD took this imaging expertise and expanded into the fields of advanced directional displays and gaze correction. RealD’s developments in these fields are used in laptops, computers, and mobile phones, as well as in the automotive/infotainment and point-of-sale sectors. For example, RealD’s display technology is incorporated into many Hewlett Packard laptop computers. See

1 [https://www.prnewswire.com/news-releases/reald-me-and-hp-partner-to-launch-reflective-](https://www.prnewswire.com/news-releases/reald-me-and-hp-partner-to-launch-reflective-privacy-technology-on-notebooks-with-sure-view-reflect-300982045.html)
2 [privacy-technology-on-notebooks-with-sure-view-reflect-300982045.html](https://www.prnewswire.com/news-releases/reald-me-and-hp-partner-to-launch-reflective-privacy-technology-on-notebooks-with-sure-view-reflect-300982045.html) (last visited July 5,
3 2022). With years of experience, RealD continues to shape the digital world today.

4 **Defendant Microsoft**

5 5. On information and belief, Defendant Microsoft is a Washington corporation
6 with its principal place of business at One Microsoft Way, Redmond, Washington 98052.
7 Microsoft is a multinational technology company that produces computer software and
8 consumer electronics. Microsoft also owns and operates social media and video conferencing
9 applications such as LinkedIn and Skype.

10 6. On information and belief, Microsoft (including its subsidiaries) directly and/or
11 indirectly develops, designs, manufactures, uses, distributes, markets, offers to sell, and/or sells
12 the Accused Products in the United States, including in this District, and otherwise
13 purposefully directs infringing activities to this District in connection with its software and
14 devices.

15 **III. JURISDICTION AND VENUE**

16 7. This is an action containing claims for patent infringement arising under the
17 patent laws of the United States, Title 35, U.S.C. § 271. This Court has exclusive subject matter
18 jurisdiction over those claims pursuant to 28 U.S.C. §§ 1331, 1367, and/or 1338.

19 8. This action further arises under the laws of the United States, namely the Defend
20 Trade Secrets Act (“DTSA”) codified at 18 U.S.C. § 1836 et seq. This Court therefore has
21 subject matter jurisdiction of those claims pursuant to 28 U.S.C. § 1331.

22 9. This action also arises under the laws of the State of Washington, namely the
23 Washington Uniform Trade Secrets Act. This Court has subject matter jurisdiction pursuant to
24 28 U.S.C. § 1367 because the actions giving rise to those claims under applicable state law are
25 the same and/or related to the actions giving rise to the asserted claims under federal law. As
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1 such, the claims are so related that they form part of the same case or controversy under Article
2 III of the United States Constitution.

3 10. The Court has personal jurisdiction over Defendant because it either currently
4 resides in the State of Washington, has a regular and established place of business within the
5 State of Washington, has had minimum contacts with the State of Washington sufficient to
6 confer the Court with general personal jurisdiction, or has committed acts within the State of
7 Washington giving rise to the claims asserted herein. Defendant, in a Non-Disclosure
8 Agreement entered into with RealD Inc. and its affiliates, agreed that jurisdiction and venue are
9 proper in the state of Washington.

10 11. Venue is proper in the Western District of Washington under 28 U.S.C.
11 § 1400(b) as Microsoft resides and has a regular and established place of business in this
12 judicial district, and this judicial district is where Microsoft has committed acts of
13 infringement.

14 **IV. FACTUAL ALLEGATIONS**

15 **REALD'S HISTORY OF INNOVATION**

16 12. RealD Inc. has spent almost twenty years developing cutting-edge imaging and
17 visual experiences for the digital age. From revolutionary light-efficient laser projectors and
18 filmmaking software to transformational privacy displays, RealD Inc. and RealD have been,
19 and remain, at the forefront of imaging industry.

20 13. In 2003, RealD Inc. developed its core polarization management technologies
21 that permeate both its cinematic and display product offerings. Over the coming years, RealD
22 Inc. implemented its new technologies on the big screens of theaters and the small screens of
23 computers, laptops, and mobile devices. RealD also adapted the technology to provide privacy
24 on these small screens by adjusting luminance, polarization, backlighting, and reflectivity to
25 prevent others from viewing the screens of other computer users. In 2018, RealD unveiled its
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1 “Privacy Guard” product in Lenovo laptops. And in 2020, RealD provided an enhanced privacy
2 product called “SureView Reflect” in HP’s Dragonfly laptops, which later expanded to
3 multiple HP PCs, laptops, and chromebooks in multiple screen sizes. Currently, RealD is
4 exploring the application of these ideas into vehicle infotainment systems and point-of-sale
5 kiosks.

6 REALD AND MICROSOFT

7 14. As part of RealD’s mission to create the ultimate visual experience across all
8 consumer electronics, RealD set its sights on video conferencing. More specifically, RealD set
9 out to develop imaging technology that adjusts the gaze of video conference participants so that
10 it appears the participants are looking directly into the camera instead of at the device screen.
11 RealD refers to this innovative technology as “SocialEyes” (a play on words of “Socialize”).

12 15. RealD worked tirelessly to research, develop, and refine SocialEyes. During the
13 development process, RealD invested significant time and resources into creating the
14 proprietary formulas, algorithms, methodologies, and products that underlie SocialEyes. For
15 example, RealD collected and analyzed large quantities of data through costly and time-
16 consuming in-person tests focused on image recognition. These development efforts were led
17 by Eric Sommerlade, Vice President of Software & Computer Vision at RealD, who oversaw
18 the team of employees that designed, developed, and deployed SocialEyes.
19

20 16. After developing SocialEyes, RealD contacted Microsoft to see if it was
21 interested in including SocialEyes in its products. Microsoft was enthusiastic about the prospect
22 and sought to learn more about the technology. Before engaging in any detailed discussions
23 about SocialEyes, RealD Inc. and its affiliates and Microsoft and its affiliates entered into a
24 Non-Disclosure Agreement (“NDA”) (attached as Exhibit A), which was executed on July 20,
25 2016.
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