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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

REALD SPARK, LLC,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Case No. 2:22-cv-00942-TL

**DEFENDANT MICROSOFT  
CORPORATION’S ANSWER,  
AFFIRMATIVE DEFENSES, AND  
COUNTERCLAIMS TO PLAINTIFF’S  
COMPLAINT FOR BREACH OF  
CONTRACT, THEFT OF TRADE  
SECRETS, AND PATENT  
INFRINGEMENT**

**JURY DEMANDED**

Defendant Microsoft Corporation submits its Answer, Affirmative Defenses, and Counterclaims to Plaintiff RealD Spark, LLC’s Original Complaint. Microsoft denies each and every allegation or characterization in the Complaint that is not expressly admitted herein. Any factual allegation below is admitted only as to the specific admitted facts and not as to any purported conclusions, characterizations, implications, or speculations that Plaintiff may argue follows from the admitted facts. Microsoft further denies that Plaintiff is entitled to the relief requested or any other relief.

**I. SUMMARY OF THE ACTION**

1. This is a breach of contract, theft of trade secrets, and patent infringement suit

1 relating to Microsoft’s unauthorized and unlicensed use of patented and/or proprietary RealD  
2 technology in its products. Microsoft’s accused devices (“the Accused Products”) include the  
3 Microsoft Surface product line, including the Microsoft Surface Pro X, certain Windows 10 (Build  
4 20175 and later) and Windows 11 products, and any other Microsoft products that incorporate its  
5 “Eye contact” correction feature.

6 **ANSWER:** Microsoft admits that the Complaint purports to set forth claims for breach of  
7 contract, theft of trade secrets, and patent infringement. Microsoft denies those claims and denies  
8 that Plaintiff is entitled to the relief requested or any other relief. Microsoft is otherwise without  
9 sufficient knowledge or information to form a belief as to the truth of the allegations set forth in  
10 this paragraph of the Complaint and therefore denies the same.

## 11 **II. PARTIES**

### 12 **Plaintiff RealD Spark, LLC**

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

16 **ANSWER:** Microsoft is without sufficient knowledge or information to form a belief as  
17 to the truth of the allegations set forth in this paragraph of the Complaint and therefore denies the  
18 same.

19 3. In October 2016, RealD spun out of RealD Inc. to focus on consumer display  
20 technology. For almost two decades, RealD Inc. has been the creator of three-dimensional (“3D”)  
21 imaging technologies for premium theater experiences. These technologies include both new  
22 equipment—3D glasses, projectors, and screens necessary for optimum 3D viewing—as well as  
23 new software that helps filmmakers create the immersive, 3D storytelling watched by moviegoers  
24 around the world. See <https://www.reald.com/realdcinema> (last visited July 5, 2022);  
25 <https://variety.com/2019/film/news/reald-premium-cinema-options-1203372287/> (last visited  
26 July 5, 2022). RealD Inc.’s partnerships with AMC Theatres and Cinemark have made its

1 technology a staple of 3D cinema, with more than 30,000 installed screens in 75 countries.  
2 <https://www.reald.com/news/reald-and-cinemark-renew-3d-agreement-through-2022> (last visited  
3 July 5, 2022). Over two billion people have watched a RealD Inc. 3D movie.

4 **ANSWER:** Microsoft is without sufficient knowledge or information to form a belief as  
5 to the truth of the allegations set forth in this paragraph of the Complaint and therefore denies the  
6 same.

7 4. RealD Inc.'s efforts to create revolutionary visual experiences are not limited to its  
8 cinematic origins. For instance, NASA used RealD Inc.'s 3D technologies to pilot the Mars Rover.  
9 [https://www.businesswire.com/news/home/20110215005554/en/Oakley-3D-Glasses-Gain-  
10 RealD%20%AE-Certification](https://www.businesswire.com/news/home/20110215005554/en/Oakley-3D-Glasses-Gain-RealD%20%AE-Certification) (last visited July 5, 2022). RealD took this imaging expertise and  
11 expanded into the fields of advanced directional displays and gaze correction. RealD's  
12 developments in these fields are used in laptops, computers, and mobile phones, as well as in the  
13 automotive/infotainment and point-of-sale sectors. For example, RealD's display technology is  
14 incorporated into many Hewlett Packard laptop computers. See  
15 [https://www.prnewswire.com/news-releases/reald-me-and-hp-partner-to-launch-reflective-  
16 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,  
17 2022). With years of experience, RealD continues to shape the digital world today.

18 **ANSWER:** Microsoft is without sufficient knowledge or information to form a belief as  
19 to the truth of the allegations set forth in this paragraph of the Complaint and therefore denies the  
20 same.

21 **Defendant Microsoft**

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



1 Microsoft admits that this Court would have subject matter jurisdiction over actions arising under  
2 18 U.S.C. §1836 pursuant to 28 U.S.C. §1331. Microsoft otherwise denies the allegations set forth  
3 in this paragraph of the Complaint.

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

10 **ANSWER:** Microsoft admits that this purports to be an action for alleged trade secret  
11 misappropriation arising under the laws of the State of Washington, namely the Washington  
12 Uniform Trade Secrets Act, but denies that Plaintiff's claims of trade secret misappropriation have  
13 merit. Microsoft admits that this Court would have subject matter jurisdiction over actions arising  
14 under 28 U.S.C. § 1367, but otherwise denies the allegations set forth in this paragraph of the  
15 Complaint.

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

23 **ANSWER:** Admitted except as to the characterization that Plaintiff's claims have any  
24 merit, which Microsoft denies.

25 11. Venue is proper in the Western District of Washington under 28 U.S.C. § 1400(b)  
26 as Microsoft resides and has a regular and established place of business in this judicial district, and

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