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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91268696
Party	Plaintiff Microsoft Corporation
Correspondence address	KRISTEN MCCALLION FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022 UNITED STATES Primary email: tmdoctc@fr.com Secondary email(s): mccallion@fr.com, paine@fr.com, john@fr.com, cheng@fr.com 212-765-5070
Submission	Other Motions/Submissions
Filer's name	Kerrijane John
Filer's email	john@fr.com, mccallion@fr.com, cheng@fr.com
Signature	/Kerrijane John/
Date	12/20/2023
Attachments	2023-12-20 Stipulated Protocol Governing the Taking of Remote Deposits.pdf(154906 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,

Opposer,

v.

MINEVERSE LLC,

Applicant.

Opposition No.: 91268696

Mark: SKYBLOCK

Serial No. 88/699,388

Filed: November 20, 2019

AURRORA LIMITED, SAPPHIRE STUDIOS  
LLC, SPARK SQUARED GMBH, EASY  
GAMES, INC., JIGARBOV PRODUCTIONS  
INC., KING CUBE LTD, DIGITAL TREE  
MEDIA LTD, REWRITE MEDIA, INC.,  
HYDREON CORPORATION,  
RAZZLEBERRIES AB, MINEPLEX LLC,

Opposers,

v.

MINEVERSE LLC,

Applicant.

Opposition No.: 91266862

Mark: SKYBLOCK

Serial No. 88/699,388

Filed: November 20, 2019

**STIPULATED PROTOCOL GOVERNING THE TAKING OF REMOTE DEPOSITIONS**

Pursuant to Rules 29 and 30(b)(4) of the Federal Rules of Civil Procedure and Section 404.06 of the Trademark Trial and Appeal Board Manual of Procedure (TBMP), Opposer Microsoft Corporation (“Microsoft”), Opposers Aurrora Limited, Sapphire Studios LLC, Spark Squared GmbH, Easy Games, Inc., Jigarbov Productions Inc., King Cube LTD, Digital Tree Media Ltd, ReWrite Media, Inc., Hydreon Corporation, Razzleberries AB, and Mineplex LLC (collectively, the “862 Opposers”), and Applicant Mineverse LLC (“Mineverse”) (and together,

Microsoft, the '862 Opposers, and Mineverse are referred to as the “Parties” and each a “Party”), through their undersigned counsel, stipulate and agree to the following protocol (“Protocol”) for conducting discovery depositions via remote means of Mineverse and Mr. Brandon Chaney in the above-captioned proceedings.

## **I. GENERAL GUIDELINES AND SCOPE**

1. The Parties agree that this Protocol will govern the taking of discovery depositions of Mineverse and Brandon Chaney in the above-captioned proceedings as a supplement to the Federal Rules of Civil Procedure and the TBMP.

2. This Protocol does not modify the governing rules for the taking of depositions imposed by the Federal Rules of Civil Procedure, the Federal Rules of Evidence, or the TBMP except to the extent those rules are specifically modified herein.

## **II. DEFINITIONS**

1. “Attending Counsel” shall mean legal counsel for a Party or for the Witness who is not deposing counsel or defending counsel, but who is attending a Remote Deposition.

2. “Defending Counsel” shall mean the legal counsel of the Party defending a deposition in this proceeding.

3. “Deposing Counsel” shall mean the legal counsel of the Party noticing and taking a deposition in this proceeding.

4. “Deposing Party” means a Party that is taking the Remote Deposition of a Witness.

5. “Platform” means any computer program, application, or other technology or combination of technologies that enables the Parties to conduct a Remote Deposition in accord with this Protocol.

6. “Remote Deposition” means any deposition by oral examination conducted

pursuant to Fed. R. Civ. P. 26 or 30 where all of the participants—including Deposing Counsel, Defending Counsel, Attending Counsel, the Witness, court reporters, or videographers—are not physically present in the same location at the time the deposition is taken, and that is conducted using videoconference technology as agreed to under this Protocol that allows the Witness, Deposing Counsel, Defending Counsel, Attending Counsel, court reporter, and videographer (if any) to participate without attending the deposition in person.

7. “Witness” means the person whose Remote Deposition has been noticed or otherwise requested in the two above-captioned proceedings.

### **III. AGREEMENT TO CONDUCT REMOTE DEPOSITIONS**

1. The Parties agree that the desire to avoid travel and associated costs is a legitimate reason for taking Remote Depositions for purposes of discovery pursuant to Fed. R. Civ. P. 30(b)(4).

2. The Parties agree that discovery Remote Depositions may be used at a trial to the same extent that an in-person discovery deposition may be used at a trial, and the Parties agree not to object to the use of the transcript of a Remote Deposition based solely on the fact that the deposition was taken using remote means. The Parties reserve all other objections to the use of any discovery deposition testimony at trial.

### **IV. DURATION OF AND TECHNOLOGY USED FOR REMOTE DEPOSITIONS**

1. The '862 Opposers will depose Mineverse and Brandon Chaney first, after which the '862 Opposers will pass the Witness to Microsoft. At the conclusion of Microsoft's questioning of the Witness, Microsoft will pass the Witness to Defending Counsel for redirect, if any. Microsoft and the '862 Opposers agree to limit the combined duration of their Remote Depositions of Mineverse and Brandon Chaney to no more than seven (7) hours of questioning on the record.

2. Any time spent, whether on or off the record, dealing with technical issues or other

issues unique to the taking of a Remote Deposition shall not count against the seven (7) hours allowed for questioning.

3. The Parties agree to use Digital Evidence Group for all Remote Depositions.

4. The Parties shall use Zoom as the Platform to conduct Remote Depositions.

5. The Parties agree that one officer, employee, or other representative of Microsoft and one officer, employee, or other representative of the '862 Opposers may view and listen to the Remote Depositions. The officer(s), employee(s), or other representative(s) will not be permitted to question the Witness or otherwise speak, except as necessary to confirm their identity with the court reporter.

6. All persons participating in, or otherwise viewing or listening to, a Remote Deposition shall enable both an audio and video connection at all times during the Remote Deposition. All persons who do not have an immediate need to speak shall ensure that their audio connection is muted.

7. The Parties will not use any private chat feature on Zoom.

8. The court reporter shall record the testimony by stenographic means, and the court reporter's transcript shall constitute the official record.

9. Any costs associated with providing the Platform for the taking of a Remote Deposition shall be the responsibility of Microsoft and the '862 Opposers. Each Party will bear its own costs for copies of transcripts from any deposition.

10. If technical difficulties arise during the taking of a Remote Deposition, counsel for the Parties will meet and confer immediately, by telephone or other means, to determine whether the Remote Deposition can proceed or should be continued to a future date. If technical difficulties arise which make the completion of a Remote Deposition impracticable, the Parties

shall resume the Remote Deposition at the earliest, mutually convenient opportunity.

## **V. EXHIBITS**

1. Pursuant to Fed. R. Civ. P. 30(f)(2), Deposing Counsel shall be responsible for ensuring that any exhibits that they wish to mark and use at a Remote Deposition can be shown to the Witness in a manner that enables the Witness and counsel for all Parties to review the exhibits during the course of the deposition.

2. Deposing Counsel may elect to mark and introduce exhibits electronically during the Remote Deposition, by using the vendor's document-sharing technology, by using the screen-sharing technology within the Platform, or by sending the exhibits to the Witness, Defending Counsel, Attending Counsel, and court reporter via email.

3. The Witness, Defending Counsel, and any persons not affiliated with Deposing Counsel, other than the vendor, shall not review any exhibit until it is introduced as an exhibit by the Deposing Party at the Remote Deposition.

## **VI. COMPLIANCE WITH THE FEDERAL AND LOCAL RULES**

1. In accordance with TBMP § 404.06, the "place of examination" for a Remote Deposition is the federal judicial district and place where the Witness is to answer the deposition questions.

2. A Remote Deposition will be deemed to have been conducted "before an officer" as required by Fed. R. Civ. P. 30(b)(5)(A) and TBMP § 404.04 so long as that officer attends the deposition via the same Platform used to connect all other remote participants, and so long as all participants (including the officer) can clearly hear and be heard by all other participants.

3. The Parties agree that a court reporter is an "Officer" as defined by Fed. R. Civ. P. 28(a)(2) and shall be permitted to administer the oath to the Witness via the Platform. The Witness will be required to provide government-issued identification satisfactory to the court

reporter, and this identification must be legible through the video connection. The Parties agree not to challenge the validity of any oath administered by the court reporter, even if the court reporter is not a notary public in the state where the Witness resides.

4. At the beginning of a Remote Deposition, consistent with Fed. R. Civ. P. 30(b)(5)(A), the court reporter shall “begin the deposition with an on-the-record statement that includes: (i) the officer’s name and business address; (ii) the date, time, and place of the deposition; (iii) the deponent’s name; (iv) the officer’s administration of the oath or affirmation to the deponent; and (v) the identity of all persons present.”

5. Deposing Counsel and Defending Counsel shall be responsible for ensuring that they have a means of communicating with their respective co-counsel or Witness, as appropriate, during breaks in a Remote Deposition.

## **VII. MISCELLANEOUS PROVISIONS**

1. The Parties agree that although Microsoft and the ’862 Opposers are parties to separate opposition proceedings against Mineverse—Opposition No. 91268696 and Opposition No. 91266862, respectively—the Parties may use transcripts and marked exhibits from Remote Depositions in both opposition proceedings regardless of the identity of the Deposing Party for a particular Remote Deposition.

2. No person may be physically located in the same room as the Witness during the taking of a Remote Deposition except for: (a) a non-attorney who is present solely for the purpose of providing technical assistance to the Witness in using the Platform or (b) Defending Counsel who represents a Witness. Any such individual must be logged onto the Platform with a separate video connection or be otherwise viewable by a camera at all times during the course of the Remote Deposition. At the beginning of a Remote Deposition, every person logged onto the Platform or otherwise viewing or listening to the Deposition must be identified for the record. Any person

joining or leaving a Remote Deposition after its beginning must be identified at the time of his or her arrival or departure.

3. During a Remote Deposition, the Witness may not communicate with any person, except through the Platform, by any means, including through gestures, handwritten communications, email, chat, instant messaging, or text messaging.

4. While on the record during a Remote Deposition, the Witness may not review, read, have before them, or otherwise access any document or electronic material, including email, text message, web pages, social media, video, audio, or any other material, except documents presented to the Witness as exhibits during the Remote Deposition, without the express consent of counsel for all Parties. While on the record during a Remote Deposition, the Witness shall not consult any outside sources of information, including cell phones, smart phones, computers, the Internet, text or instant messaging services, emails, chats, blogs, or websites such as Twitter, Facebook, or LinkedIn, to obtain information in connection with his or her testimony.

5. Based on their experience under this Protocol and the needs of individual witnesses, the Parties may stipulate to modifications of this Protocol applicable to an individual Remote Deposition.

SO STIPULATED AND AGREED.

Dated: December 20, 2023

*/Kristen McCallion/*

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Kristen McCallion  
[mccallion@fr.com](mailto:mccallion@fr.com)  
Vivian Cheng  
[cheng@fr.com](mailto:cheng@fr.com)  
Kerrijane John  
[john@fr.com](mailto:john@fr.com)  
FISH & RICHARDSON P.C.  
PO Box 1022  
Minneapolis, MN 55440  
Tel: 212-765-5070

*Attorneys for Opposer Microsoft Corporation*

Dated: December 20, 2023

*/Barry Werbin/*

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Barry Werbin  
[bwerbin@herrick.com](mailto:bwerbin@herrick.com)  
Herman, Joshua  
[jherman@herrick.com](mailto:jherman@herrick.com)  
Herrick, Feinstein LLP  
2 Park Avenue  
New York, NY 10016  
Tel: 212-592-1418

*Attorneys for Opposers Aurora Limited, Sapphire Studios LLC, Spark Squared GmbH, Easy Games, Inc., Jigarbov Productions Inc., King Cube LTD, Digital Tree Media Ltd, ReWrite Media, Inc., Hydreon Corporation, Razzleberries AB, Mineplex LLC*

Dated: December 20, 2023

*/Alexander Litt/*

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Alexander Litt  
[alitt@moritthock.com](mailto:alitt@moritthock.com)  
Michael Schwab  
[mschwab@moritthock.com](mailto:mschwab@moritthock.com)  
Moritt Hock & Hamroff LLP  
1407 Broadway, 39th Floor  
New York, NY 10018  
Tel: 212-239-2000

*Attorneys for Applicant Mineverse LLC*