

# COVINGTON

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August 13, 2019

*Via Electronic Filing*

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Re: File No. 0221-EX-CM-2019 (Call Sign WK2XHQ)  
Application for Modification of Experimental License**

## **REQUEST FOR CONFIDENTIAL TREATMENT**

Microsoft Corporation (“Microsoft”), by counsel, hereby respectfully seeks confidential treatment pursuant to the Freedom of Information Act (“FOIA”) and section 0.459 of the Commission’s rules<sup>1</sup> for the exhibit that accompanies its application to modify the above-referenced experimental license (the “Exhibit”). As explained more fully below, the Exhibit contains highly sensitive and confidential information, the public disclosure of which would have a significant and material adverse effect on the company.

The Commission’s rules specify that, with the requisite showing that “the materials contain trade secrets or privileged or confidential commercial, financial or technical data,” the materials in question shall be afforded confidential treatment and not be made available for public inspection.<sup>2</sup> As was the case with the exhibit submitted for the original experimental license issued to Microsoft for call sign WK2XHQ, the Exhibit falls squarely within this definition. Pursuant to Section 0.459(b) of the Commission’s rules, Microsoft provides the following detailed explanation for this request for confidential treatment:

*1. Identification of the specific information for which confidential treatment is sought.*

Microsoft seeks confidential treatment for the Exhibit on the basis that it contains

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<sup>1</sup> 5 U.S.C. § 552, et seq.; 47 C.F.R. § 0.459.

<sup>2</sup> 47 C.F.R. § 0.457(d)(2).

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confidential commercial information, technical data and trade secrets concerning Microsoft products under development and its testing processes, all of which Microsoft customarily guards from public disclosure.

*2. Identification of the Commission proceeding in which the information was submitted or description of the circumstances giving rise to the submission.*

The material is being submitted in order to modify an existing experimental license so that Microsoft can more efficiently and effectively test and develop its mobile operating system and other new technologies.

*3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.*

The Exhibit contains highly confidential commercial information, technical data and trades secrets, the release of which would cause substantial harm to Microsoft by revealing to competitors non-public information about Microsoft products under development and its testing processes.

*4. Explanation of the degree to which the information concerns a service that is subject to competition.*

The software industry is fiercely competitive. Microsoft and its competitors carefully guard information about forthcoming products.

*5. Explanation of how disclosure of the information could result in substantial competitive harm.*

The release of the Exhibit would provide Microsoft's competitors with non-public information concerning the company's products under development and its testing processes, which could be used to disadvantage Microsoft in the marketplace. This information is not ordinarily made public by industry participants.

*6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure.*

Microsoft makes available information on its products under development and its testing processes solely on a "need to know" basis to the extent necessary to the operation of its business. For instance, all employees and contractors who use the experimental network are subject to non-disclosure agreements as a component of their work for Microsoft.

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*7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.*

The information in the Exhibit is not publicly available.

*8. Justification of the period during which the submitting party asserts that material should be available for public disclosure.*

In light of the sensitive nature of the information contained therein, the Commission should not make the Exhibit available for public inspection at any point. Even if and when the products in development ultimately are released, the Exhibit reveals non-public and confidential information concerning Microsoft's product testing processes.

*9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.*

Microsoft will exercise careful control over the software and devices to be tested to prevent any risk that such material could be identified or evaluated by a member of the public or a competitor.

\* \* \*

This request for confidential treatment should not be construed as a waiver of any other protection from disclosure or confidential treatment accorded by law. Please contact the undersigned at (202) 662-5143 if you should have any questions concerning this filing.

Respectfully submitted,

Ani Gevorkian  
*Counsel to Microsoft*