

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.

Before the Honorable Theodore R. Essex  
Administrative Law Judge

In the Matter of

CERTAIN HANDHELD ELECTRONIC  
COMPUTING DEVICES, RELATED  
SOFTWARE, AND COMPONENTS  
THEREOF

Investigation No. 337-TA-769

**JOINT UNOPPOSED MOTION FOR LEAVE TO TAKE TWO  
EXPERT DEPOSITIONS AFTER THE CLOSE OF EXPERT DISCOVERY**

Pursuant to Commission Rule 210.15, Ground Rules 4 and 9.5, and Order No. 4, Complainant Microsoft Corporation and Respondents Barnes & Noble, Inc. and barnesandnoble.com LLC (collectively, "the Parties") hereby jointly move for leave to take the depositions of two expert witnesses after the scheduled close of expert discovery.

The Parties have worked diligently to schedule expert depositions to accommodate the experts' availability in several geographical locations, taking into account the schedules of the Parties' counsel and the Commission Investigative Staff. While most expert depositions will be completed before the December 6, 2011, expert discovery deadline set in Order No. 4, two experts are not available before this date, due to unavoidable conflicts including family emergencies, other trial commitments, and work obligations. Furthermore, the Commission Investigative Attorney's need to attend technical expert depositions has precluded double-tracking.

The Parties have mutually agreed to deposition dates for the two remaining experts; specifically, Microsoft's expert Dr. Oded Gottesman on December 9, and Barnes & Noble's expert Dr. Benjamin Goldberg for two days on December 15-16 (due to the large number of

patents addressed in Dr. Goldberg's reports). The Commission Investigative Attorney has also indicated he is able to attend both depositions on those dates.

Good cause exists to take these two expert depositions out of time. Both expert depositions are with respect to patents asserted or otherwise at issue in this investigation, and are therefore essential to both Parties' cases. No party will be prejudiced by these depositions taking place after the close of expert discovery, which have been scheduled as soon after the deadline as possible. The Parties agree that this is the preferred course of action, given the circumstances. No other deadlines, including the hearing or target dates, will be affected by these two depositions being taken out of time.

Pursuant to Ground Rule 3.2, Microsoft and Barnes & Noble certify that on December 2, 2011, Respondent Inventec Corporation and the Commission Investigative Attorney were contacted, and neither opposed this motion.<sup>1</sup>

For the reasons set forth above, Microsoft and Barnes & Noble respectfully request leave to take two expert depositions after the close of expert discovery.

Dated: December 5, 2011

Respectfully submitted,

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<sup>1</sup> As of Order No. 23, pending review by the Commission, the Foxconn Respondents have been terminated from the Investigation.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **JOINT UNOPPOSED MOTION FOR LEAVE TO TAKE TWO EXPERT DEPOSITIONS AFTER THE CLOSE OF EXPERT DISCOVERY** was served to the parties, in the manner indicated below, this 5th day of December 2011:

The Honorable James R. Holbein  
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- VIA HAND DELIVERY

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