

**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**

**NOTICE OF WITHDRAWAL OF COMPLAINANT MICROSOFT  
CORPORATION'S MOTION FOR A PROTECTIVE ORDER  
EXCUSING MR. STEVEN A. BALLMER FROM TESTIFYING  
AT THE HEARING (MOTION NO. 769-065)**

In light of the compromise agreement reached between Complainant Microsoft Corp. and the Barnes & Noble Respondents, Microsoft respectfully withdraws its Motion for a Protective Order Excusing Mr. Steven A. Ballmer from Testifying at the Hearing (Motion No. 769-065) pursuant to the terms of the letter submitted to ALJ Essex on today's date, included hereto as Attachment A.

Dated: January 24, 2012

Respectfully submitted,

/s/ Rowan E. Morris

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# **ATTACHMENT A**



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January 24, 2012

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***VIA EDIS, HAND DELIVERY, AND ELECTRONIC MAIL***

The Honorable Theodore R. Essex  
Administrative Law Judge  
U.S. International Trade Commission  
500 E Street, S.W, Room 317  
Washington, D.C. 20436

**Re: *Certain Handheld Electronic Computing Devices, Related Software, and Components Thereof, Inv. No. 337-TA-769***

Dear Judge Essex:

I write concerning Complainant Microsoft Corp.'s Motion for a Protective Order Excusing Mr. Steven A. Ballmer from Testifying at the Hearing (Motion No. 769-065). On Friday afternoon, Microsoft and the Barnes & Noble respondents reached an agreement that resolves the subject of this motion. Accordingly, Microsoft withdraws this motion and the request for shortened response time.

Microsoft and Barnes & Noble have agreed to submit excerpts of Mr. Ballmer's deposition in lieu of his live testimony. This compromise permits Barnes & Noble to submit the evidence it sought from Mr. Ballmer while minimizing the burden on Mr. Ballmer and Microsoft. It also eases the burdens on the parties and Your Honor by resolving the subject of Microsoft's motion without requiring further briefing or an order from the ALJ. Finally, the parties' compromise will allow the trial to proceed more efficiently, as it eliminates one of the live witnesses Barnes & Noble sought to call.

Microsoft and Barnes & Noble have agreed to the following schedule:

- Jan. 24: Barnes & Noble will serve its designations of Mr. Ballmer's deposition transcript;

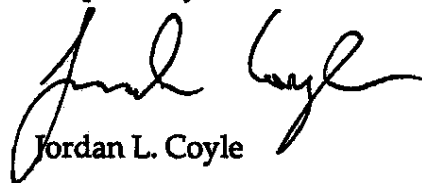


The Honorable Theodore R. Essex  
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- Jan. 26: Microsoft will serve its counter-designations and its objections, if any, to Barnes & Noble's designations;
- Jan. 27: Barnes & Noble will serve its objections, if any, to Microsoft's counter-designations;
- Jan. 30: Microsoft and Barnes & Noble will submit a joint motion for leave to admit these designations and counter-designations out of time and for the ALJ to accept the parties' objections, if any, to these designations out of time.

The parties will proceed with this schedule unless Your Honor directs otherwise. Commission Investigative Staff does not oppose this compromise solution. Please contact me if you have any questions.

Respectfully submitted,



Jordan L. Coyle

cc: Per Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **NOTICE OF WITHDRAWAL OF COMPLAINANT MICROSOFT CORPORATION'S MOTION FOR A PROTECTIVE ORDER EXCUSING MR. STEVEN A. BALLMER FROM TESTIFYING AT THE HEARING (MOTION NO. 769-065)** was served to the parties, in the manner indicated below, this 24th day of January 2012:

The Honorable James R. Holbein  
Secretary  
U.S. INTERNATIONAL TRADE COMMISSION  
500 E Street, S.W., Room 112A  
Washington, DC 20436

- VIA ELECTRONIC FILING
- VIA HAND DELIVERY

The Honorable Theodore R. Essex  
Administrative Law Judge  
U.S. INTERNATIONAL TRADE COMMISSION  
500 E Street, S.W., Room 317N  
Washington, DC 20436

- VIA HAND DELIVERY

Jeffrey Hsu  
Office of Unfair Import Investigations  
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- VIA HAND DELIVERY
- VIA ELECTRONIC MAIL

**Counsel for Respondents Barnes & Noble, Inc.  
and barnesandnoble.com LLC and  
Inventec Corporation**

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- VIA HAND DELIVERY
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