

# United States Court of Appeals

For the Seventh Circuit  
Chicago, Illinois 60604

February 9, 2011

## Before

JOEL M. FLAUM, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

JOHN DANIEL TINDER, *Circuit Judge*

No. 08-4164

BOARD OF REGENTS OF THE  
UNIVERSITY OF WISCONSIN SYSTEM,  
*Plaintiff-Appellee,*

*v.*

PHOENIX INTERNATIONAL  
SOFTWARE, INC.,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Western District  
of Wisconsin

No. 07 C 665

Barbara B. Crabb,  
*Judge.*

## ORDER

The petition for rehearing is **GRANTED**. The opinion previously issued on December 28, 2010 is **WITHDRAWN**. The panel will rehear this case on March 30, 2011, with 20 minutes per side allowed for argument.

Supplemental briefing, not to exceed 20 pages, will be allowed on the following questions:

1. Whether the district court erred in concluding that plaintiff-appellee Board of Regents of the University of Wisconsin (Wisconsin) did not waive any sovereign immunity it may have had to the counterclaims asserted by defendant-appellant Phoenix International Software (Phoenix), or otherwise consent to their adjudication in this case?

2. Whether the counterclaims brought by Phoenix against Wisconsin are compulsory or permissive counterclaims under FED. R. CIV. P. 13?

The simultaneous briefs are due not later than March 8, 2011. The rehearing argument will focus on these questions.