

1 Paul J. Andre (Bar No. 196585)
Esha Bandyopadhyay (Bar No. 212249)
2 Perkins Coie LLP
101 Jefferson Drive
3 Menlo Park, California 94025-1114
Phone: (650) 838-4370
4 Fax: (650) 838-4350
Email: PAndre@perkinscoie.com
5 bande@perkinscoie.com

6 Scott T. Wilsdon (*pro hac vice*)
Jeremy Roller (*pro hac vice*)
7 Yarmuth Wilsdon Calfo PLLC
925 Fourth Avenue, Suite 2500
8 Seattle, Washington 98104
Phone: (206) 516-3800
9 Fax: (206) 516-3888
Email: wilsdon@yarmuth.com
10 jroller@yarmuth.com

11 Attorneys for Plaintiff Microsoft

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION

15 MICROSOFT CORPORATION, a
Washington corporation,

16 Plaintiff,

17 v.

18 OLEG MEDVEDKOV, d/b/a 1ST CHOICE
SOFTWARE, 030801, LEJEPEK,
19 LEJEPEKA, and ARTOW, an individual; and
LYNN LAYHEE, d/b/a 030801, an
20 individual,

21 Defendants.

NO. CIV S-06-0949 FCD GGH

~~PROPOSED~~ ORDER ON SHOW
CAUSE HEARING

Hearing May 5, 2006, at 10:00 a.m.

The Honorable Frank C. Damrell, Jr.

FILED
MAY - 5 2006
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]

Microsoft Corporation v. Medvedkov et al.

Doc. 22

22
23 THIS MATTER comes before the Court upon plaintiff Microsoft's ("Microsoft")
24 request to continue certain temporary orders entered by this Court on May 1, 2006.
25 Defendant Oleg Medvedkov appeared in person and through counsel at the Show Cause
26

1 Hearing held on May 5, 2006. The Court, having reviewed the materials submitted and
2 heard the argument of counsel, and being fully advised, hereby rules as follows:

3 (1) The Court GRANTS Microsoft's request to continue the Temporary
4 Impoundment Order entered by the Court on May 1, 2006. The Court finds that Microsoft
5 has carried its burden of showing (a) irreparable harm, and (b) a likelihood of success on
6 the merits. The Court finds in the alternative that sufficient questions on the merits to make
7 them a fair ground for litigation and a balance of hardships tipping decidedly in Microsoft's
8 favor.

9 (2) Pursuant to Federal Rule of Civil Procedure 65, 15 U.S.C. § 1116(a), 17
10 U.S.C. § 503(a), 17 U.S.C. § 1203(b)(2), and 18 U.S.C. § 2318(f)(2)(B), the Court
11 ENJOINS defendant Oleg Medvedkov, and any persons or entities acting on his behalf,
12 from transferring, removing or disposing of any Microsoft software products or components
13 in his possession, custody or control.

14 (3) The Court ORDERS defendant Oleg Medvedkov, within ten days of this
15 Order, to make available for inspection and impoundment all Microsoft software products
16 or components in his possession, custody or control. Microsoft is authorized to remove and
17 impound any items it reasonably determines to be counterfeit, tampered and/or infringing.
18 Microsoft shall provide defendant Medvedkov with a written inventory of all items to be
19 impounded. The law firm of Perkins Coie shall be designated as the substitute custodian
20 for purposes of holding the impounded items, and shall make those items available for
21 inspection by defendant Medvedkov and his lawyer, upon reasonable notice.

22 (4) The Court GRANTS Microsoft's request to continue the Temporary
23 Restraining Order regarding the distribution of Microsoft products entered by the Court on
24 May 1, 2006. The Court finds that Microsoft has carried its burden of showing (a)
25 irreparable harm, and (b) a likelihood of success on the merits. The Court finds in the
26

1 alternative that sufficient questions on the merits to make them a fair ground for litigation
2 and a balance of hardships tipping decidedly in Microsoft's favor.

3 (5) Pursuant to Federal Rule of Civil Procedure 65, 15 U.S.C. § 1116(a), 17
4 U.S.C. § 502, 17 U.S.C. § 1203(b), and 18 U.S.C. § 2318(f)(2)(A), the Court ENJOINS
5 defendant Oleg Medvedkov, and any persons or entities acting on his behalf, from
6 advertising, distributing or selling any Microsoft software products, including, but not
7 limited to the following:

- 8 (a) Windows XP Professional,
- 9 (b) Office 2003 Professional,
- 10 (c) Access 2003,
- 11 (d) Excel 2003,
- 12 (e) Outlook 2003,
- 13 (f) PowerPoint 2003,
- 14 (g) Word 2003,
- 15 (h) Publisher 2003,
- 16 (i) Office 2000 Professional,
- 17 (j) Access 2000,
- 18 (k) Excel 2000,
- 19 (l) Outlook 2000,
- 20 (m) PowerPoint 2000,
- 21 (n) Word 2000,
- 22 (o) Publisher 2000,
- 23 (p) Office 97, and
- 24 (q) Other software products protected by any Microsoft copyright or
25 displaying any Microsoft trademark.
- 26

1 (6) Pursuant to Federal Rule of Civil Procedure 65, 15 U.S.C. § 1116(a), 17
2 U.S.C. § 502, 17 U.S.C. § 1203(b), and 18 U.S.C. § 2318(f)(2)(A), the Court ENJOINS
3 defendant Oleg Medvedkov, and any persons or entities acting on his behalf, from
4 advertising, distributing or selling any Microsoft software components, including, but not
5 limited to the following:

- 6 (a) Certificates of Authenticity (“COAs”),
- 7 (b) End User License Agreements (“EULAs”),
- 8 (c) Client Access Licenses (“CALs”),
- 9 (d) Product keys,
- 10 (e) End user manuals,
- 11 (f) Frontliners and backliners,
- 12 (g) Registration cards, and
- 13 (h) Other documentation, labeling components or packaging designed to
14 be distributed with Microsoft software products.

15 (7) The Court GRANTS Microsoft’s request to continue the Court’s Temporary
16 Restraining Order freezing certain accounts. The Court finds that Microsoft has carried its
17 burden of showing (a) irreparable harm, and (b) a likelihood of success on the merits. The
18 Court finds in the alternative that sufficient questions on the merits to make them a fair
19 ground for litigation and a balance of hardships tipping decidedly in Microsoft’s favor.

20 (8) Pursuant to Federal Rule of Civil Procedure 65, the Court’s general equitable
21 power, 17 U.S.C. § 504(b), 15 U.S.C. § 1117(a), and 18 U.S.C. § 2318(f)(3)(A), the Court
22 hereby ENJOINS defendant Oleg Medvedkov, and any persons or entities acting on his
23 behalf, including the financial institutions identified below, from transferring, disposing of,
24 encumbering or secreting funds in any of the following accounts:

1 (a) The PayPal account in the name of Oleg Medvedkov or associated
2 with the e-mail address 030801a@sbcglobal.net; and

3 (b) The Bank of America account in the name of Oleg Medvedkov or
4 associated with account number 0580009813 (ABA Routing No. 121000358).

5 (9) Notwithstanding the preceding paragraph, defendant Oleg Medvedkov shall
6 be permitted to make a one-time withdrawal of \$5,000 from the Bank of America account
7 identified in subparagraph (b).

8 (10) The temporary orders entered by the Court shall take effect immediately and
9 shall remain in effect pending the Show Cause Hearing in Paragraph 12, or further order of
10 this Court.

11 (11) Pursuant to Federal Rule of Civil Procedure 26(d), the Court ORDERS
12 defendant Oleg Medvedkov, within ten days of this Order, to make available for inspection
13 and copying by Microsoft all electronic data files, e-commerce records, e-mail
14 communications, customer records, shipping records, telephone logs and other materials
15 that relate to defendant's software business. Microsoft is authorized to make mirror image
16 copies, or to otherwise backup or archive, all computers or electronic data storage devices
17 used by defendant. Microsoft is further authorized to inspect and copy all physical records
18 in defendant's possession, custody or control.

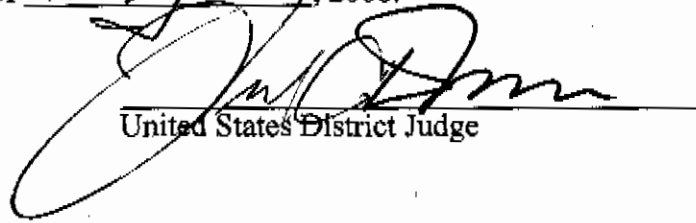
19 (12) Defendant Oleg Medvedkov is ordered to appear on June 2, 2006,
20 at 10 a.m. ~~am.~~, and show cause why the temporary orders should not remain in effect
21 pending the trial in this action.

22 (13) Defendant Oleg Medvedkov shall serve and file any papers in opposition to
23 a continuation of the temporary orders not less than seven court days before the Show
24 Cause Hearing. Plaintiff Microsoft shall serve and file any reply papers not less than three
25 court days before the Hearing.

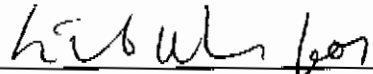
26 ///

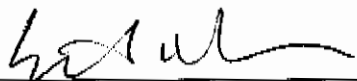
1 (14) The Court LIFTS the seal on pleadings filed in this action. The Clerk of the
2 Court is directed to place all pleadings previously filed in the public file, and to take any
3 further actions necessary to carrying out this Order.

4 DATED this 5th day of May, 2006.

5
6 
7 United States District Judge

8 **Presented by:**

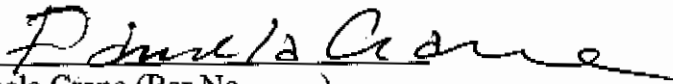
9
10 
11 Paul J. Andre (Bar No. 196585)
12 Esha Bandyopadhyay (Bar No. 212249)
13 Perkins Coie LLP
14 101 Jefferson Drive
15 Menlo Park, California 94025-1114
16 Phone: (650) 838-4370
17 Fax: (650) 838-4350
18 Email: PAndre@perkinscoie.com
19 bande@perkinscoie.com

20 
21 Scott T. Wilsdon (*pro hac vice* pending)
22 Jeremy R. Roller (*pro hac vice* pending)
23 YARMUTH WILSDON CALFO PLLC
24 925 Fourth Avenue, Suite 2500
25 Seattle, Washington 98104
26 Phone: (206) 516-3800
Fax: (206) 516-3888
E-Mail: wilsdon@yarmuth.com
jroller@yarmuth.com

Attorneys for Plaintiff Microsoft Corporation

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Approved as to Form:



Pamela Crane (Bar No.)
2377 Gold Meadow Way
Suite 100
Gold River, California 95670
Phone: (916) 806-6827
Fax: (916) 363-9964
Email: pcrane@pcrane.com

Attorneys for Defendant Oleg Medvedkov