

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MSHIFT, INC., a Delaware corporation,  
Plaintiff,

v.

No. C 10-00710 WHA

DIGITAL INSIGHT CORPORATION, a Delaware corporation, COMMUNITY TRUST FINANCIAL CORPORATION, a Louisiana corporation, and COMMUNITY TRUST BANK, a Louisiana corporation, MOBILE MONEY VENTURES, LLC, a Delaware Limited Liability corporation, MERITRUST CREDIT UNION, a Kansas corporation, PROFESSIONAL FEDERAL CREDIT UNION, an Indiana corporation, SANFORD INSTITUTION FOR SAVINGS, a Maine corporation, FORT WORTH COMMUNITY CREDIT UNION, a Texas corporation, USE CREDIT UNION, a California corporation, GATE CITY BANK, A Minnesota corporation, BUSEY BANK, an Illinois corporation, DENSON STATE BANK, a Kansas corporation, FIDELITY BANK, a Massachusetts corporation, FIRST INTERNET BANK OF INDIANA, an Indiana corporation, and VISION BANK, a Florida corporation,

**ORDER GRANTING  
MOTION TO  
INTERVENE AND  
VACATING HEARING**

Defendants.

DIGITAL INSIGHT CORPORATION d/b/a INTUIT FINANCIAL SERVICES, a Delaware corporation,

Counterclaimant,

v.

MSHIFT, INC., a Delaware corporation,

Counterdefendant.

1 In this patent infringement action, applicant SK C&C Co. (“SK”), a South Korean  
2 company, moves to intervene as a defendant. SK moves to intervene as a matter of right, or in  
3 the alternative, permissively, in order to protect its interest in software that it sells to defendant  
4 Mobile Money Ventures (“MMV”). In response to plaintiff’s complaint, MMV sought  
5 indemnification from SK, on the basis that the allegedly infringing product was the “banking  
6 solution provided by SK.” Helge Decl. ¶ 2. MMV packages SK’s software into a mobile banking  
7 solution, and in partnership with defendant Intuit Financial Services (“IFS”), resells the mobile  
8 banking solution to customers of IFS. Plaintiff’s first amended complaint names MMV, IFS, and  
9 twelve bank customers of IFS, as defendants. SK filed a proposed answer to plaintiff’s original  
10 complaint, including affirmative defenses and counterclaims, in parallel with the instant motion.  
11 Defendants and plaintiff have both filed statements of non-opposition to SK’s motion to  
12 intervene.

13 Rule 24(a) governs the instant motion. An applicant seeking intervention as of right must  
14 show that: (1) it has a “significant protectable interest” relating to the property that is the subject  
15 of the action; (2) disposition of the action may impair or impede the applicant’s ability to protect  
16 its interest; (3) the application is timely; and (4) the existing parties do not adequately represent  
17 the applicant’s interest. *Donnelly v. Glickman*, 159 F.3d 405, 409 (9th Cir. 1998). In the Ninth  
18 Circuit, district judges should interpret these requirements “broadly in favor of intervention.”  
19 *Ibid.*

20 *First*, applicant SK has a significant protectable interest in this proceeding: the software  
21 that it sells to defendant MMV is the mobile banking solution is the subject of plaintiff’s  
22 infringement action.

23 *Second*, if SK were not allowed to intervene, its ability to defend its interests in this matter  
24 would be impaired by any defense, settlement, or order disposing of this proceeding.

25 *Third*, SK timely filed its application to intervene. Non-expert discovery will not come  
26 to a close for another eight months. Trial is not scheduled to begin for another eleven months.


27 *Fourth*, SK is not adequately represented by existing parties to this proceeding.  
28 SK’s software is at the core of plaintiff’s infringement allegation. Furthermore, SK has been

1 asked to indemnify defendant MMV for any liability that results from this proceeding. MMV is  
2 indemnifying IFS, and IFS is indemnifying its twelve bank customers who have been named  
3 as defendants. If the instant motion were denied, SK would essentially be asked to indemnify  
4 fourteen defendants without having an opportunity to defend itself against plaintiff's claims.  
5 SK's application to intervene meets the four *Donnelly* requirements. SK has demonstrated that  
6 it is entitled to intervene as a matter of right, and therefore discussion of its motion to intervene  
7 permissively is unnecessary.

8 For the aforementioned reasons, applicant SK's motion to intervene as a defendant in this  
9 action is **GRANTED**. SK must file its answer to plaintiff's first amended complaint, including any  
10 affirmative defenses and counterclaims, within **SEVEN CALENDAR DAYS** of this order. No parties  
11 oppose SK's intervention. Accordingly, the hearing on the instant motion, scheduled for **JULY 8,**  
12 **2010**, is **VACATED**.

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14 **IT IS SO ORDERED.**

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16 Dated: June 24, 2010.

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19 WILLIAM ALSUP  
20 UNITED STATES DISTRICT JUDGE  
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