

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1232 (CKK)

Next Court Deadline: None

**DEFENDANT MICROSOFT CORPORATION'S
MEMORANDUM IN OPPOSITION TO CCIA AND SIIA'S
JOINT MOTION FOR ENLARGEMENT OF TIME FOR APPEAL**

Microsoft opposes the request of CCIA and SIIA to extend the time to file a notice of appeal. The only reason that CCIA and SIIA's motion for leave to intervene was not fully briefed until two days ago is that they waited to file their motion until the tail end of the period in which an appeal may be filed. Such self-inflicted delay does not provide CCIA and SIIA with "good cause" to seek additional time to appeal. FED. R. APP. P. 4(a)(5)(A)(ii).

CCIA and SIIA had more than ample time to move to intervene. This Court entered the Final Judgment in this action on November 12, 2002, after having conditionally approved it in an order dated November 1, 2002. Because the United States is a party to this action, the time period in which to appeal was 60 (not 30) days. *See* FED. R. APP. P. 4(a)(1)(B).

CCIA and SIIA nevertheless waited until December 20, 2002, before filing their motion to intervene. It is the actions of CCIA and SIIA—not those of the parties or the Court—that have brought us so near the deadline to file a notice of appeal. CCIA and SIIA's

delay in seeking to intervene does not constitute good cause to give them additional time to appeal.

CONCLUSION

For the foregoing reasons, this Court should deny the joint motion of CCIA and SIIA for enlargement of time for appeal.

Dated: Washington, D.C.
January 10, 2003

Respectfully submitted,

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