

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No. 98-1232 (CKK)

Next Court Deadline: January 27, 2003

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION FOR APPOINTMENT OF
EDWARD P. STRITTER AS THE THIRD MEMBER OF THE TECHNICAL
COMMITTEE**

Plaintiff, the United States of America, files this Memorandum in support of its Motion for Appointment of Edward P. Stritter as the third Member of the Technical Committee. Section IV.B.3.b of the Final Judgment in the above-captioned case requires that Plaintiff and the Plaintiff states, the States of New York, Ohio, Illinois, Kentucky, Louisiana, Maryland, Michigan, North Carolina, and Wisconsin (the "Settling States"), apply to this Court for the appointment of the person selected by Plaintiff and the Settling States and the person selected by Microsoft to serve on the Technical Committee (the "Standing Committee Members"), as described in Section IV of the Final Judgment. The Plaintiff and Plaintiff states applied to the Court for appointment of the Standing Committee Members, Dr. Harry J. Saal and Franklin Fite, Jr., on November 21, 2002.

As soon as practical after the Court appoints the Standing Committee Members, Section IV.B.3.c of the Final Judgment requires these two Members to identify to Plaintiffs and Microsoft the third Member of the Technical Committee. Absent any objection to the proposed

third Member, the Settling States and the United States must then apply to the Court for appointment of this individual.¹ (See Final Judgment Section IV.B.3.d.) Although the Court has not yet appointed the Standing Committee Members, these Members have selected the proposed third Member. On January 12, 2003, the Standing Committee Members identified Edward P. Stritter as their proposed designee to the Technical Committee. Neither Plaintiff, the Settling States, nor Microsoft objects under Section IV.B.2 to Mr. Stritter being appointed as a Member of the Technical Committee. Plaintiff, together with the Settling States, and Microsoft interviewed Mr. Stritter, and Plaintiff, in consultation with the Settling States, conducted a thorough background investigation, including an evaluation of potential financial conflicts. Mr. Stritter is an expert in software design and programming and does not have a conflict of interest that could prevent him from performing his duties under the Final Judgment in a fair and unbiased manner. Accordingly, Plaintiff respectfully requests that the Court appoint Edward P. Stritter to serve as a Member of the Technical Committee.²

I. The Standing Committee Members' Selection of Mr. Stritter

The Standing Committee Members have selected Edward P. Stritter to be the third Member of the Technical Committee. By way of brief background, Mr. Stritter was awarded a Bachelor of Arts Degree in Mathematics from Dartmouth College, and a Master of Science degree and a Ph.D. degree in Computer Science from Stanford University. Since completing his

¹On December 16, 2002, the Court granted Plaintiff's and the Settling States' consent motions to extend the time to move for appointment of the proposed third Technical Committee Member, directing that such motions be filed by January 27, 2003.

²The Settling States have informed Plaintiff that they will file a parallel Motion in *State of New York, et al., v. Microsoft Corporation*, CA No. 98-1233 (CKK) to appoint Edward P. Stritter as a Technical Committee Member.

education, he has had extensive experience in various hardware and software technologies. Mr. Stritter has worked as a programmer for Bell Laboratories, as Chief Architect for Motorola's 68000 microprocessor, and as Director of Product Development for Nestar, Inc. He also founded three companies: MIPS Computer, Inc., the developer of the first commercial RISC microprocessor; NeTpower, Inc., a producer of workstations and servers using MIPS and Intel processors; and Clarity Wireless, a producer of high data-rate fixed broadband wireless equipment. Most recently, Mr. Stritter was the Director of Business Development for Cisco Systems, Inc.'s wireless access business unit. He has also served as a board member for several "start-up" technology companies. A true and correct copy of Mr. Stritter's curriculum vitae is attached hereto as Exhibit A.

II. Conclusion

Mr. Stritter has had extensive experience in a variety of technical and managerial positions involving software and other technology. He satisfies the requirements for serving on the Technical Committee set forth in Section IV.B.2 of the Final Judgment and is well-qualified to fulfill the responsibilities of a Technical Committee Member. Accordingly, Plaintiff respectfully requests that the Court appoint Mr. Stritter to serve as a Member of the Technical Committee, along with Dr. Harry J. Saal and Franklin Fite, Jr., whose motions for appointment are *sub judice* in this case and in Civil Action No. 98-1233.

Dated: January 27, 2003

Respectfully submitted,

PHILLIP R. MALONE
RENATA B. HESSE
PAULA L. BLIZZARD
PATRICIA A. BRINK
JOAN V. FARRAGHER
JEFFREY D. NEGRETTE
BARBARA J. NELSON
JEFFREY J. VANHOOREWEGHE

Trial Attorneys
U.S. Department of Justice
Antitrust Division
600 E Street, N.W.
Suite 9500
Washington, D.C. 20530
202/514-8276