

note: STUKE WITH ATTORNEYS, will be filing amended copy
Friday or Monday
Chambers

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

GORDON ROY PARKER,	Plaintiff
v.	CASE NO.: 07-2757
Microsoft, Inc., and Microsoft Corporation,	Judge: MAM
Defendants	

FILED
 JAN 22 2009
 MICHAEL E. KUNZ, Clerk
 By: [Signature] Dep. Clerk

PLAINTIFF'S RULE 16 BRIEF FOR HEARING

Plaintiff apologizes to the court for the loss of his Rule 16 form, and was unable to secure a replacement in time. In lieu of the form, he submits this briefing, using the Judge's procedures as a guide, by covering each issue raised in the procedures, in brief format.

I. STATUS OF CASE

All but one of Plaintiff's claims has been dismissed. His Count I, for direct infringement occurring after the filing of this lawsuit, remains. Defendants have each filed several counterclaims, some of which seek relief identical to previous rulings in this case

A. Possibility of Settlement

Settlement of Plaintiff's remaining claim seems unlikely, especially given the counterclaims. Plaintiff has been open to settling the counterclaims to the extent that they do not conflict with existing rulings in the case, or attempt to invalidate his copyrights. As Defendants have cited no specific conduct it seeks to enjoin, Plaintiff has nothing to offer in that regard. He has not threatened any further litigation that would give rise to any new controversy.

For the direct infringement claim, relating to infringement after the filing of this lawsuit, Plaintiff would be willing to settle this claim in his favor, with statutory damages to be determined by this court, for one count of infringement of a registered work, regardless of the actual number of infringements.

B. Dispute resolution, additional parties, amended pleadings

Defendants' counterclaims are an attempted "backdoor class action" lawsuit brought against a pro-se defendant, rather than a major publisher with expensive attorneys. Both Defendants seek extraordinary relief, an "implied license" and fair use of anything published on the internet without password protection, which this court has equated with copyright protection. Plaintiff has no issue with the implied-license ruling, and had sued only because he never thought this court would rule that way, which meant he needed to protect his copyrights under the current law of the land. As Plaintiff abides by this court's implied-license ruling, however much he may disagree with it, no future controversy exists, as Plaintiff has removed the materials in controversy from his website.

Plaintiff intends to move to have this case certified as a class action, and for appointed counsel, on equal-access grounds. Unlike his many other lawsuits, Plaintiff is a Defendant in the counterclaims, and is not capable of properly defending himself sufficiently to ensure due process under the law. This will be argued in those pleadings. Plaintiff is also aware that a pro-se cannot lead a class action, but that should not cover his moving for class certification. Defendants' Counterclaims have been framed such that anyone who publishes a website could have been named as a Defendant: i.e., *The New York Times*, or any site which leaves content on its site without password-protection.

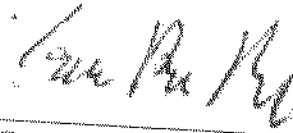
C. Discovery

For the direct infringement claims, Plaintiff requires discovery to prove profit motive, and intent, among other relevancies. For the counterclaims, Plaintiff needs to explore motive, profit motive, market impact, among other issues. Discovery may be protracted in this case, but parts of it require none.

D. Scheduling Order.

Plaintiff has no preferences for scheduling, and does what he can to accommodate the scheduled deadlines and hearing/trial dates.

This the 22nd day of January, 2009




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	CASE NO.: 07-2757
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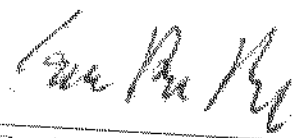
CERTIFICATE OF SERVICE

I, Gordon Roy Parker, **Plaintiff** in the above-styled action, hereby certify that I have served a copy of **Plaintiff's Motions To Dismiss Counterclaims (2)**, on both defendants in this action via **regular mail**, as follows:

Corey Field
Ballard, Spahr, Andrews & Ingersoll, LLP
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Mr. Mishkin
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This the 22nd day of January, 2009



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