

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

ANASCAPE, LTD.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	Civil Action No. 9:06-CV-158
v.	§	
	§	
MICROSOFT CORP., ET AL.,	§	JUDGE RON CLARK
	§	
<i>Defendants.</i>	§	
	§	

**ORDER**

The court is considering the appointment of Dr. Howard K. Schmidt, Executive Director, Carbon Nanotechnology Laboratory, Rice University -- MS 100, 6100 South Main Street, Houston, TX 77005, as a technical advisor to the court. *See Techsearch, L.L.C. v. Intel Corp.*, 286 F.3d 1360 (Fed. Cir. 2002). The court finds that this case is an exceptional one under the standards set forth in the *Techsearch* decision. By this order, the court endeavors to provide a fair and open procedure to the parties for the selection of a technical advisor. The court is familiar with Dr. Schmidt and his qualifications, and proposes his appointment to the parties.

Dr. Schmidt will examine the patents in this suit, the pertinent briefs, and any evidence submitted with an eye toward helping the court in understanding the technology involved in the patents from the point of view of one skilled in the art. He may provide technical education and background information in the technology or aid the court in selecting technically correct and concise language to clearly set out decisions the court has made on various issues. While he may be asked to locate, or explain information in, technical documents listed in the patents in issue or

in the prosecution history, Dr. Schmidt will not conduct any experiments or investigations for the court, supply any evidence to the court, nor testify in any proceeding. He will not act as a special master, decide any contested issue, nor conduct any hearing or settlement conference.

Fees of the technical advisor shall be taxed, as they are incurred, equally against the parties as costs of court. The court will permit either party to lodge any objections to this appointment by May 16, 2007. Such objections may be filed under seal and *in camera*.

So **ORDERED** and **SIGNED** this **10** day of **May, 2007**.



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Ron Clark, United States District Judge