

**UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451**

apb/tlc

Mailed: December 7, 2005

Opposition No. 91161002

Microsoft Corporation

v.

SoftCamp Co. Ltd.

**Andrew P. Baxley, Interlocutory Attorney:**

A review of the procedural history of this proceeding is appropriate.

On June 23, 2004, the Board issued the notice instituting this proceeding and forwarded a copy of the notice of opposition to applicant's attorney/domestic representative.

On July 12, 2004, applicant's attorney/domestic representative, in lieu of applicant's answer, filed a submission wherein he asserted that he is not applicant's counsel.<sup>1</sup> Applicant's attorney/domestic representative filed a similar submission on August 16, 2004 in involved application Serial No. 76310036. The Board construed the July

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<sup>1</sup>The July 12, 2004 submission raises issues regarding applicant's representation herein which should have been addressed before this proceeding moved any further forward. Accordingly, the Board deems the filing of that submission to have tolled the running of all dates herein. Accordingly, opposer's motion (filed May 3, 2005) for default judgment is premature and will receive no consideration.

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12, 2004 submission as a request to withdraw as applicant's counsel in this proceeding. In a September 27, 2004 order, the Board denied that request and reset applicant's attorney/domestic representative's time to perfect his withdrawal.

On October 26, 2004, applicant's attorney/domestic representative submitted a renewed request to withdraw as applicant's counsel herein. In a January 13, 2005 order, the Board denied the renewed request and allowed applicant's attorney/domestic representative time to perfect his withdrawal.

After applicant's attorney/domestic representative failed to file another submission to perfect his withdrawal as applicant's counsel herein, the Board issued an order on April 25, 2005 wherein it resumed proceedings with applicant's attorney/domestic representative remaining of record.<sup>2</sup> In

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<sup>2</sup> The renewed request to withdraw as applicant's counsel includes a statement specifying the basis for the request, a statement that all papers and property that relate to the proceeding and to which the client is entitled have been delivered to the client, and a statement that applicant had not paid applicant's attorney/domestic representative. Further, the Board presumes under the totality of circumstances herein that applicant's attorney/domestic representative has notified applicant of his desire to withdraw from employment and has allowed time for applicant's employment of another attorney. The renewed request, however, does not include proof of service thereof upon applicant and opposer. See Patent and Trademark Rule 10.40. *Cf. In re Legendary Inc.*, 26 USPQ2d 1478 (Comm'r 1992). Applicant's attorney/domestic representative's frustration with his client has not gone unnoticed. Nonetheless, unless and until applicant's attorney/domestic representative files a second renewed request to withdraw that complies with Patent and

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that order, however, the Board failed to reset applicant's time to answer. On September 18, 2005, the Board issued an order with applicant's attorney/domestic representative remaining of record wherein the Board reset applicant's time to answer and discovery and trial dates.

Pursuant to the September 18, 2005, applicant's answer was due on October 18, 2005. Inasmuch as it appears that no answer has been filed, nor has applicant filed a motion to extend its time to answer, notice of default is hereby entered against applicant under Fed. R. Civ. P. 55(a).

Applicant is allowed until **thirty days** from the mailing date of this order to show cause why judgment by default should not be entered against applicant in accordance with Fed. R. Civ. P. 55(b).

Proceedings herein are otherwise suspended.

A copy of this order has been sent to the following persons.

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Trademark Rule 10.40 and Trademark Rule 2.119(a), applicant's attorney/domestic representative will remain of record herein.

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