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DISTRICT OF UTAH  
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Attorney for Plaintiff Caldera, Inc.  
[by its successor-in-interest,  
The Canopy Group, Inc.]

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

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CALDERA, INC., [by its successor-in- interest, THE CANOPY GROUP, INC.]	)	<b>MOTION TO MODIFY STIPULATION REGARDING PRESERVATION OF DOCUMENTS UNDER THE PROTECTIVE ORDER</b>  Civil No. 2:96 CV 0645DB  Judge Dee V. Benson Magistrate Judge Ronald N. Boyce
Plaintiff,	)	
vs.	)	
MICROSOFT CORPORATION	)	
Defendants.	)	
	)	
	)	
	)	
	)	
	)	

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Pursuant to Rule 7(b) of the Federal Rules of Civil Procedure and Paragraph 2 of the Stipulation Concerning Preservation of Documents under the Protective Order (the "Stipulation") previously entered in this action, The Canopy Group, Inc. ("Canopy"), as the successor-in-interest by way of a merger, of Plaintiff Caldera, Inc., hereby moves the Court to modify the Stipulation to permit Canopy to:

1. Destroy the documents being preserved in accordance with the Stipulation; or
2. Deliver the documents being preserved to Microsoft or to the person or entity who produced the documents in question; or
3. Deliver the documents being preserved to a third party having an interest in ongoing preservation of those documents, if any such party exists and if such a course of action would not prejudice the rights of the entities that originally produced the Documents; or
4. Take such other action as the Court may order, in the interests of justice, that would relieve Canopy of the obligation and costs of retaining the documents yet preserve the documents for interested parties.

The grounds for this motion are:

1. Canopy has no interest in retaining the documents in question;
2. The original Protective Order stipulated that the documents would be returned or destroyed upon resolution of the case;
3. The documents were retained for the convenience of third parties;
4. Canopy should not be expected to bear the ongoing expenses of storing the documents indefinitely; and
5. If any person or entity has an interest in preserving those documents, the expense of storage and preservation should fall on the party or parties who have an actual interest in such action.

Therefore, as a matter of fairness and economy, the Stipulation should be modified to relieve Canopy of the ongoing expenses of preservation.

A supporting Memorandum and a Proposed Order are attached.

DATED this 18<sup>th</sup> day of October, 2002.

COLTERJENNINGS



V. Harrison Colter

Attorney for Plaintiff The Canopy Group, Inc.  
successor-in-interest to Caldera, Inc.

Plaintiff's Address:

333 South 520 West  
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Certificate of Service

The undersigned hereby certifies that a copy of the above MOTION TO MODIFY STIPULATION REGARDING PRESERVATION OF DOCUMENTS UNDER THE PROTECTIVE ORDER was mailed via United States mail to:

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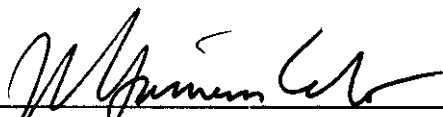
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On October 18, 2002

  
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